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PROCEEDINGS

OF THE

American Political Science Association

AT ITS

Tenth Annual Meeting

Washington, D. C.

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THE AMERICAN POLITICAL SCIENCE ASSOCIATION

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[1] The Presidential Address of Prof. W. W. Willoughby appears in the February, 1914, issue of *The American Political Science Review*. The address by Mr. Ernest Bruncken on "Some Neglected Factors in Law Making," will appear in a later issue of the *Review*.

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CONSTITUTION OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION

ARTICLE I—Name

This Association shall be known as the American Political Science Association.

ARTICLE II—Object

The encouragement of the scientific study of Politics, Public Law, Administration and Diplomacy.

The Association as such will not assume a partisan position upon any question of practical politics, nor commit its members to any position thereupon.

ARTICLE III—Membership

Any person may become a member of this Association upon the payment of Three Dollars, and after the first year may continue such by paying an annual fee of Three Dollars. By a single payment of Fifty Dollars or of five payments of Ten Dollars each in successive years any person may become a life member, exempt from annual dues.

Each member will be entitled to a copy of all the publications of the Association issued during his or her membership.

ARTICLE IV—Officers

The officers of this Association shall consist of a President, three Vice-Presidents, a Secretary and a Treasurer, who shall be elected annually, and of an Executive Council consisting ex-officio of the officers above mentioned and fifteen elected members, whose term of office shall be three years. These elected members shall be divided into three groups of five each, the term of membership of one of such groups expiring each year.

All officers shall be nominated by a Nomination Committee composed of five members appointed by the Executive Council, except that the officers for the first year shall be nominated by a committee of three to be appointed by the chairman of the meeting at which this Constitution is adopted.

All officers shall be elected by a majority vote of the members of the Association present at the meeting at which the elections are had.

ARTICLE V—Duties of Officers

The President of the Association shall preside at all meetings of the Association and of the Executive Council, and shall perform such other duties as the Executive

Council may assign to him. In his absence his duties shall devolve successively upon the Vice-Presidents in the order of their election, upon the Secretary and the Treasurer.

The Secretary shall keep the records of the Association and perform such other duties as the Executive Council may assign to him.

The Treasurer shall receive and have the custody of the funds of the Association, subject to the rules of the Executive Council.

The Executive Council shall have charge of the general interests of the Association, shall call regular and special meetings of the Association, appropriate money, appoint Committees and their chairmen, with appropriate powers, and in general possess the governing power in the Association, except as otherwise specifically provided in this Constitution. The Executive Council shall have the power to fill vacancies in its membership occasioned by death, resignation or failure to elect, such appointees to hold office until the next annual election of officers.

Five members shall constitute a quorum of the Executive Council, and a majority of those in attendance shall control its decisions.

Ten members shall constitute a quorum of the Association and a majority vote of those members in attendance shall control its decisions.

ARTICLE VI—RESOLUTIONS

All resolutions to which an objection shall be made shall be referred to the Executive Council for its approval before submission to the vote of the Association.

ARTICLE VII—AMENDMENTS

Amendments to this Constitution shall be proposed by the Executive Council and adopted by a majority vote of the members present at any regular or special meeting of the Association.

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Crothers, Geo. E., Chronicle Building, San Francisco, Cal.
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Curtis, Prof. R. E., University of Georgia, Athens, Ga.
Curtis, W. E., 27 W. 47 St., Manhattan, New York City.
Cushman, R. Eugene, Livingston Hall, Columbia University, New York City.
Cutler, Miss Mary H., Mills College, California.
Cutten, Charles P., 445 Sutler St., San Francisco, Cal.
Cutting, R. Fulton, 32 Nassau St., New York City.

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Davis, J. Lionberger, Room 1000, Third National Bank Building, St. Louis, Mo.
Davis, Thomas W., 308-310 The Southern, Wilmington, N. C.
Dawkins, Walter I., 408 Fidelity Building, Baltimore, Md.
Dawson, Edgar, Normal College, 68th St. and Park Ave., New York City.
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Deering, James A., 135 Broadway, New York City.
Dehrem, H., 315 E. 17th St., New York City.
Delaware College, Newark, Delaware.
de Milhau, Mr. Louis J., 19 W. 12th St., New York City.
Deming, Horace E., 15 William St., New York City.
Dennis, A. L. P., Madison, Wis.
Dennis, Rev. James S., Box 175, Montclair, N. J.
Dennis, Wm. C., 810 Union Trust Building, Washington, D. C.
Department of Finance, (Okurasho-Rizai-Kyoku) Tokyo, Japan.
Dern, George H., 36 H St., Salt Lake City, Utah.
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Dickerson, O. M., 550 W. King St., Wenona, Minn.
Dickey, Francis W., Western Reserve University, Cleveland, O.
Dickinson Edwin D., Thayer Lodge, Hanover, N. H.
Dickman, J. W., Fayette, Ia.
Dike, Miss Elizabeth A., 113 Hancock St., Auburndale, Mass.
Dillard, F. C., 139 W. Van Buren St., Chicago, Ill.
Dimock, Mrs. Henry F., George Washington Memorial Association, 25 E. 60th St., New York City.
Ding, Mr. Neng Guong, Board of Foreign Affairs, Foochow, China.
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Duncan D. Shaw, University of Denver, University Park, Col.
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Duniway, C. A., 715 Thornburg St., Laramie, Wyo.
Dunne, P. F., Flood Building, San Francisco, Cal.
Dunning, Prof. John C., Brown University, Providence, R. I.
Dunning, Wm. A., Columbia University, New York City.
Durand, E. Dana, 2614 Woolsey Place, Washington, D. C.
Durand, Loyal, 384 Lake Drive, Milwaukee, Wis.
Duret, M. Lanz, 2a San Agustin 51, Mexico D. F., Mexico.
Dutcher, George Matthew, Wesleyan University, Middletown, Conn.
Duval, Mr. L. W., Ocklawaha Ave., Ocala, Fla.
Dyer, John L., P. O. Box 182, El Paso, Texas.
Dykstra, C. A., University of Kansas, Lawrence, Kan.
Dynes, Sarah A., State Normal School, Trenton, N. J.

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Edmonds, Franklin S., 614 Franklin Building, Philadelphia, Pa.
Edwards, Stephen O., 181 Lloyd Ave., Providence, R. I.
Egleston, Melville, 26 Cortlandt St., New York City.
Eisenberg, Jacob, 202 E. 76th St., New York City.
Ekern, Herman L., Madison, Wis.
Eliot, Edward C., 5468 Maple Ave., St. Louis, Mo.
Elkus, Abram I., 170 Broadway, New York City.
Elliott, Edward, Princeton University, Princeton, N. J.
Ellis, Ellen Deborah, Mt. Holyoke College, South Hadley, Mass.
Ellis, George W., 3262 Vernon Ave., Armour Station, Chicago, Ill.
Ellis, George W., 149 Broadway, New York City.
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Enriquez Ernesto, Av. Juarez 40, Mexico City, Mexico.
Esberg, A. I., 102 Second Ave., New York City.
Estabrook. A. F., 15 State St., Boston, Mass.
Evans, Frank S., 2110 Spruce St., Philadelphia, Pa.
Evans, Ira H., Austin, Texas
Evans, Lawrence B., Medford, Mass.
Evans, Rowland, Post Office Building, Indianapolis, Ind.
Ewart, Mr. John S., Molsons Bank Chambers, Ottawa, Canada.
Executive Secretary, Government of the Philippine Islands, Manila, P. I.

Fair, Eugene, 808 E. Washington St., Kirksville, Mo.
Fairbanks, Charles W., 1522 N. Meridian St., Indianapolis, Ind.
Fairlie, John A., Urbana, Ill.
Falkner, Roland P., Ancon, Canal Zone.
Farnam, Henry W., 43 Hillhouse Ave., New Haven, Conn.
Farrand, Max, Yale University, New Haven, Conn.
Farrar, Mr. Edgar Howard, Hibernia Building, New Orleans, La.
Fay, Sydney B., Dartmouth College, Hanover, N. H.
Fehlandt, August, Michigan, N. D.
Feidels, Dr. Otto, Behrenstrasse 32-33, Berlin, W. 8, Germany.
Fenwick, C. G., 2 Jackson Place, Washington, D. C.
Ferguson, Henry, 123 Vernon St., Hartford, Conn.
Ferguson, J. Maxwell, 69 Clinton Ave., Jamaica, N. Y.
Fesler, Mayo, Civic League, Cleveland, O.
Field, Fred. T., 901 Barristers' Hall, Boston, Mass.
Field, George H., 452 Delaware Ave., Buffalo, N. Y.
Finke, W. F., Charles City College, Charles City, Ia.
Finley, John H., College of the City of New York, New York City.
Fischer, W. J., 804 National Bank of Commerce Building, St. Louis, Mo.
Fisher, Mr. Frederic A., Sun Building, Lowell, Mass.
Fisher, Irving, 460 Prospect St., New Haven, Conn.
Fisher, Walter L., 1810 Conn. Ave., Washington, D. C.

Fisher, Willard C., Middletown, Conn.
Fisk, Everett O., 2A Park St., Boston, Mass.
Fitzpatrick, Hon. Sir Charles, Ottawa, Ontario, Canada.
Fitzpatrick, Edward A., Wisconsin State Board of Public Affairs, Madison, Wis.
Fitzpatrick, F. Stuart, 94 Vernon St., Hartford, Conn.
Flack, H. E., City Hall, Baltimore, Md.
Fleming, Walter L., Louisiana State University, Baton Rouge, La.
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Fox, George L., University School, New Haven, Conn.
Fox, Hugh F., 50 Union Square, New York City.
France, Mr. J. C., Continental Building, Baltimore, Md.
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Frankfurter, Felix, Assistant U. S. Attorney, P. O. Building, New York City.
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Friedenwald, Herbert, 356 Second Ave., New York City.
Frothingham, Mr. John W., 375 West End Ave., New York City.
Fuller, Paul, 2 Rector St., New York City.

Gabriel, John H., 712 Kittredge Building, Denver, Col.
Gallagher, Mr. M. F., 1631 Ashland Ave., Evanston, Ill.
Gannaway, John W., Grinnell, Ia.
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Garfield, H. A., Williams College, Williamstown, Mass.
Garner, J. W., University of Illinois, Urbana, Ill.
Garrett, Robert, Continental Trust Building, Baltimore, Md.
Garsh, Julius, 29 Oread St., Worcester, Mass.
Garver, F. H., Montana State Normal School, Dillon, Mont.
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Giberga, Eliseo, Prado 10, Havana, Cuba.
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Gilmore, Hugh M., Mason City, Ia.
Giltner, Mr. E. E., 418 W. 118th St., New York City.
Giroux, Louis F., 16 Maynard St., Springfield, Mass.
Glasson, Wm. H., Trinity College, Durham, N. C.
Gochenour, E. F., University of Porto Rico, Rio Piedras, P. R.
Goehring, John M., 801 Berger Building, Pittsburgh, Pa.
Gompers, Samuel, Duray Building, Washington, D. C.
Gonzales, Senor Teodosio, Asuncion, Paraguay.
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Greene, Roger S., 303 Federal Building, Seattle, Wash.
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Guatemala, President of, Central America.
Guldlin, O. N., 2306 Fairfield Ave., Fort Wayne, Ind.
Gumnell, Wm. B., 545 Mt. Prospect Ave., Newark, N. J.
Guthrie, W. B., 515 W. 11th St., New York City.

Hagerman, Abby S., Vassar College, Poughkeepsie, N. Y.
Hagerman, H. J., Roswell, New Mexico.
Hainer, Mr. E. J., 362 Fraternity Building, Lincoln, Neb.
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Harriman, Edward A., 306 Exchange Building, New Haven, Conn.
Harris, N. Dwight, 1134 Forest Ave., Evanston, Ill.
Harris, Wilmer C., 632 Forest Ave., Ann Arbor, Mich.
Hart, Albert B., Harvard University, (House Address—Quincy Chambers,) Cambridge, Mass.
Hart, Mrs. Albert B., Quincy Chambers, Cambridge, Mass.
Hartshorne, Charles H., 239 Washington St., Jersey City, N. J.
Hartzell, Charles, San Juan, Porto Rico.
Haskins, Charles H., 15 Prescott Hall, Harvard University, Cambridge, Mass.
Hatch, Wm. B., Ypsilante, Mich.
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Herzberg, Henry, 1624 Madison Ave., Baltimore, Md.
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Highsaw, Mr. J. L., Memphis Central High School, Memphis, Tenn.
Hildebrand, Edward, 2158 Seventh Ave., New York City.
Hilkey, C. J., Dartmouth College, Hanover, N. H.
Hill, Hon. David J., Cosmos Club, Washington, D. C.
Hill, Mabel, Dean of the Post Graduate Department, Dana Hall School, Wellesley, Mass.
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Hoadley, Horace G., P. O. Box 809, Waterbury, Conn.
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Hoagland, Mr. Joseph C., 16 William St., New York City.
Hodge, Miss H. H., 43 St. Stephen St., Boston, Mass.
Hogg, Charles E., The College of Law, Morgantown, W. Va.
Holcomb, A. E., 15 Dey St., New York City.
Holcombe, A. N., 21 Fallen St., Cambridge St., Mass.
Holden, Alice, Bureau for Research in Municipal Government, Harvard University, Cambridge, Mass.
Holler, Prof. H. P., President of Oriental University, 1919 Pennsylvania Ave., N. W., Washington, D. C.
Holman, Frederick V., 501 Chamber of Commerce Building, Portland, Ore.
Holmes, George K., Department of Agriculture, Washington, D. C.
Holt, Henry, 34 W. 33d St., New York City.
Holt, Lieut. Col. L. H., West Point, New York.
Holt, W. F., 405 W. Olive Ave., Redlands, Cal.
Hoover, Thomas N., State Normal College of Ohio University, Athens, O.
Hopkins, A. T., Mechanical Rubber Company, Cleveland, O.
Hopkins, W. J., 821 College Ave., Racine, Wis.
Hopkins, W. R., 2039 Cornell Road, S. E., Cleveland, O.
Horack, F. E., University of Iowa, Iowa City, Ia.
Hormell, Mr. O. C., 52 Hartswell St., Brunswick, Me.
Hornbeck, Stanley K., 505 N. Carroll St., Madison, Wis.
Hotchkiss, Willard E., Northwestern University, Evaston, Ill.
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Howison, George H., 2631 Piedmont Ave., Berkeley, Cal.
Howland, Charles P., Mills Building, New York City.
Hoyt, H. M., Care Hoyt and Gibbons, Hery Building, Reno, Nev.
Hsiao-Min, Soule Louis, Johns Hopkins University, Baltimore, Md.
Hubbard, F. M., Peekskill Military Academy, Peekskill, N. Y.
Hubbard, Hermon Milton, Jr., 29 Hoffman Ave., Columbus, O.
Hudson, Gardner K., Fitchburg, Mass.
Hudson, I. R., Kissam Hall, Vanderbilt University, Nashville, Tenn.

Hudson, Sydney, D. M., Bryn Mawr College, Bryn Mawr, Pa.
Hull, Charles Henry, Cornell University, Ithaca, N. Y.
Humbert, S. E., 14 Wall St., New York City.
Hume and Walker, Santiago, Chile.
Hunley, W. M., University of Virginia, Charlottesville, Va.
Hunting, Dr. Warren B., 52 William St., New York City.
Huntington, Archer M., 1083 Fifth Ave., New York City.
Hurburgh, C. F., Mail Building, Galesburg, Ill.
Hutchcraft, Reuben, Jr., Paris, Ky.
Hutzler, David, 212 N. Howard St., Baltimore, Md.
Hyatt, Mr. A. Judson, 408 W. 150th St., New York City.
Hyde, Mr. C. C., 112 West Adams St., Chicago, Ill.
Hyde, James H., 18 Rue Adolphe Yvon, Paris, France.
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Iowa State University, Iowa City, Ia.
Itakura, T., Jiji Shimpo, Tokyo, Japan.

Jacobi, Dr. A., 19 E. 47th St., New York City.
James, Edmund J., University of Illinois, Urbana, Ill.
James, Elden V., Department of History and Civics, Kansas State Agricultural College, Manhattan, Kan.
James, Herman Gerlach, University of Texas, Austin, Tex.
James, J. A., Northwestern University, Evaston, Ill.
Janes, Henry L., State Department, Washington, D. C.
Jarvis, Mr. James N., 3224 Perrysville Ave., N. S., Pittsburgh, Pa.
Jeffrey, J. A., 581 E. Town St., Columbus, O.
Jeffries, J. Temple Lloyd, 105 Marlborough St., Boston, Mass.
Jenks, Jeremiah W., New York University, Washington Square, New York City.
Jensen, Christen, 225 East 6th North St., Provo, Utah.
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Jones, Chester L., 151 Summit Ave., Madison, Wis.
Jones, E. M., Masonic Temple, New York City.
Jones, George W., 1209-19 First National Bank Building, Montgomery, Ala.
Jones, H. V., The Journal, Minneapolis, Minn.
Jones, W. Clyde, 134 Monroe St., Chicago, Ill.
Jones, William, 142 Main St., Aurora, Ill.
Judson, F. N., 500-506 Rialto Building, St. Louis, Mo.
Judson, H. P., University of Chicago, Chicago, Ill.

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Kansas City Public Library, Kansas City, Mo.
Kansas State Agricultural College, Manhattan, Kan.
Kansas State Library, Topeka, Kan.
Kansas State Normal School Library, Emporia, Kan.
Kansas, Library of University of, Lawrence, Kan.
Kauffman, J. H., Central Savings Bank Building, Canton, O.
Kaye, Percy L., Baltimore City College, Baltimore, Md.
Kehew, Mrs. Mary Morton, 29a Chestnut St., Boston, Mass.
Kenna, E. D., The Rocks, Boars Head, Sussex, England.
Kennan, Kossuth Kent, Madison, Wis.
Kennedy, F. W., 78 Circular St., Tiffin, O.
Kentucky, State University of, Lexington, Ky.
Kespohl, Julius, 1855 Jersey St., Quincy, Ill.
Kientzle, J. P., 256 E. 11th St., Erie, Pa.
Kilvert, Maxwell A., Apartado 5329, Mexico D. F., Mexico.
Kimball, Prof. Everett, Smith College, Northampton, Mass.
King, Clyde L., University of Pennsylvania, Philadelphia, Pa.
King, Judson, 63 The Olympia, Washington, D. C.
King, J. L., Librarian, Kansas State Library, Topeka, Kan.
Kingland, T. A., Lake Mills, Ia.
Kingsbury, Joseph Lyman, State Normal School, Kirksville, Mo.
Kinsell, S. Tyson, Care Custom House, Philadelphia, Pa.
Kirchwey, G. W., Columbia University, New York City.
Kirk, Wm., University of Rochester, Rochester, N. Y.
Kirkpatrick, J. E., 1524 Boswell Ave., Topeka, Kan.
Kirtland, J. H., 80th St. and East End Ave., New York City.
Klar, A. Julian, 130 Montague St., Brooklyn, N. Y.
Klein, Julius, 75 N. 3rd St., San José, Cal.
Knapp, Martin A., Stoneleigh Court, Washington, D. C.
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Koebner, Prof. Otto, Mattheikirchistr. 28, Berlin, Germany.
Kohler, Max J., 52 William St., New York City.
Koo, V. K. Wellington, Pekin, China.
Korff, Baron S. A., University of Finland, Helsingfors, Finland.
Korn, Martin P., 932 Kelly St., New York City.
Krebs, H. J., 806 Franklin St., Wilmington, Del.
Kuemmerle, Gust. C., Lawrence St. and Girard Ave., Philadelphia, Pa.
Kuhn, Arthur K., Whitehall Building, 17 Battery Place, New York City.
Kursheedt, Manuel A., 302 Broadway, New York City.

Lacock, John K., 3 Rural Delivery, Amity, Pa.
Lamar, Mr. L. Q. C., P. O. Box 1729, Habana, Cuba.
Lane, C. J., 299 Broadway, New York City.
Lansing, Robert, 1323 18th St., Washington, D. C.
Lapp, John A., State Library, Indianapolis, Ind.
Lapradelle, A. G. de, 15 rue Valentine Haüy, Paris, France.
Latané, John H., Johns Hopkins University, Baltimore, Md.
Lau-Chi, Chang, care of Chief Inspectorate of Salt Revenues, Pekin, China.
Lauterbach, Edward, 22 William St., New York City.
Law Association of Philadelphia, Room 600, City Hall, Philadelphia, Pa.
Lawrason, S. McC., St. Francisville, La.
Lawson, Victor F., 123 Fifth Ave., Chicago, Ill.
Leacock, Stephen, McGill University, Montreal, Canada.
Leake, Eugene W., 259 Washington St., Jersey City, N. J.
Learned, H. B., 50 Cold Spring St., New Haven, Conn.
Lee, Charles H., Box 158, Racine, Wis.
Lee, Ivy L., Pennsylvania Railroad Company, Broad St. Station, Philadelphia, Pa.
Lee, Paul W., Fort Collins, Col.
Lee, Thomas Z., 49 Westminster St., Providence, R. I.
Lefavour, Henry, Simmons College, Boston, Mass.
Léger, J. N., Port-au-Prince, Haiti.
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Lemmonier Library, Notre Dame, Ind.
L'Engle, Mr. E. J., Law Exchange, Jacksonville, Florida.
Lennon, John B., Box 598, Bloomington, Ill.
Leonard, Frederick M., 4243 Walnut St., Philadelphia, Pa.
Lester, Clarence B., 2152 W. Lawn Ave., Madison, Wis.
Lewis, Charles S., 217-218 Fletcher-American National Bank Building, Indianapolis, Ind.
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Liberia, President of, Monrovia, Liberia.
Librarie C. Klincksieck, 11 Rue de Lille, Paris, 7e, France.
Library, Department Archives and History, Charleston, W. Va.
Library of State University, Lexington, Ky.
Liebmann, Walter H., 32 Broadway, New York City.
Light, John H., South Norwalk, Conn.
Lincoln, E. S., 185 Winthrop Road, Brookline, Mass.
Lincoln, Jonathan T., Fall River, Mass.
Lindley, Curtis H., 604 Mills Building, San Francisco, Calif.
Lindley, Harlow, Earlham College, Earlham, Ind.
Lindsay, John D., 31 Nassau St., New York City.
Lindsay, Samuel McC., Columbia University, New York City.
Lindsey, Edward, Warren, Pa.
Lingley, Prof. C. R., Dartmouth College, Hanover, N. H.
Lipman, F. L., Wells Fargo Nevada National Bank, San Francisco, Cal.
Lira, Rafael Luis Diaz, Ministerio de Instruccion, Santiago, Chile.
Loeb, Isidor, University of Missouri, Columbia, Mo.
Loesch, Frank J., 4247 Hazel Ave. Chicago, Ill.
Loewy, Benno, 206-208 Broadway, New York City.
Lombardi, C., Care "Dallas News," Dallas, Tex.
London Library, St. James Square, London, England.
Lord, J. Walter, Maryland Trust Building, Baltimore, Md.
Los Angeles Public Library, Los Angeles, Cal.
Louisiana State Normal School, Natchitoches, La.
Louisville Free Public Library, Louisville, Ky.
Lovejoy, Ernest W., 55 Liberty St., New York City.
Low, A. Maurice, Hibbs Building, Washington, D. C.
Lowber, James Wm., 1706 Branzos St., Austin, Tex.
Lowden, Frank O., Oregon, Ill.
Lowell, A. Lawrence, 843 Exchange Building, Boston, Mass.
Lucas, A. B., Meadows, Idaho.
Ludington, Arthur C., 56 W. 10th St., New York City.
Lueck, Martin L., Juneau, Wis.
Lull, Herbert G., University of Washington, Seattle, Wash.
Lybyer, Albert H., 708 S. 4th St., Champaign, Ill.
Lyman, Arthur T., P. O. Box 1717, Boston, Mass.

Macalester College Library, St. Paul, Minn.
McAneny, George, 19 E. 47th St., New York City.
McBain, Howard Lee, Columbia University, New York City.
McCarthy, Charles, Madison, Wis.
McCarthy, Charles D., 96 Summer St., Malden, Mass.
McCarthy, Dwight G., Emmetsburg, Iowa.
MacChesney, Nathan William, 30 N. La Salle St., Chicago, Ill.
McClain, Judge Emlin, Stanford University,Palo Alto, Cal.
MacClean, E. A., Room 401, 191 Broadway, New York City.
McClellan, Hon. George B., Princeton University, Princeton, N. J.

McClure, C. H., Warrensburg, Mo.
McCormick, Alexander A., 5541 Lexington Ave., Chicago, Ill.
McCormick, Mrs., Harold F., 1000 Lake Shore Drive, Chicago, Ill.
McCormick, Robert H. Jr., 332 S. Michigan Ave., Chicago, Ill.
MacCracken, John H., 15 E. 83rd St., New York City.
McCreery, Fenton R., Flint, Mich.
McCulloch, Mr. Albert J., Southwestern College, Winfield, Kan.
Macdonald, Eugene S., 80 Maiden Lane, New York City.
McDougall, J. Lorne, Haileybury, Ontario, Canada.
McElroy, R. M., 86 Stockton St., Princeton, N. J.
McEnerney, Garret W., 1277 Flood Building, San Francisco, Cal.
MacGibbon, D. A., Brandon College, Brandon, Manitoba, Canada.
McGill University Library, Montreal, Canada.
MacGregor, Ford H., 115 Spooner St., Madison, Wis.
McGregor, J. C., Washington and Jefferson College, Washington, Pa.
McIlwain, C. H., 13 Hilliard St., Cambridge, Mass.
Mack, Edwin A., 403 Lake Drive, Milwaukee, Wis.
McKendricks, Norman S., Phillips Academy, Exeter, N. H.
McKenna, Martin, 95 Tillinghast Place, Buffalo, N. Y.
McKinley, Albert E., 6901 Germantown Ave., Philadelphia, Pa.
McKinley, Wm. B., Champaign, Ill.
McKissick, Rion, care of W. G. Sirrine, Greenville, S. C.
McLaren, W. W., Keiogijuku, Tokyo, Japan.
McLaughlin, A. C., 5609 Woodlawn Ave., Hyde Park Station, Chicago, Ill.
MacLean, J. A., University of Manitoba, Winnipeg, Manitoba, Canada.
McLeod, Mr. S. C., 11 Everett St., Cambridge, Mass.
McMahon, Fulton, 165 Broadway, New York City.
McMahon, J. Sprigg, 334 W. 1st St., Dayton, O.
McMynn, Robert M., 498 Terrace Ave., Milwaukee, Wis.
McNulty, William D., 141 Broadway, New York City.
Machail, Andrew, 216 Peel St., Montreal, Canada.
McPherson, Logan G., 1329 Pennsylvania, Ave., Washington, D. C.
McReynolds, Mr. Allen, Carthage, Mo.
MacVeagh, Franklin, 194 N. Wabash Ave., Chicago, Ill.
Macy, Jesse, Iowa College, Grinnell, Iowa.
Macy, John E., 19 Congress St., Boston, Mass.
Macy, V. Everit, Scarboro-on-Hudson, New York.
Magruder, F. A., 24 Madison St., Princeton, N. J.
Main, John F., 206 Union St., Olympia, Wash.
Maine, Library of University of, Orono, Me.
Maine State Library, Augusta, Me.
Maloy, William M., 836 Equitable Building, Baltimore, Md.
Maltbie, Mili Roy, 154 Nassau St., New York City.
Manchester, William C., 1002 Ford Building, Detroit, Mich.
Mangalvedkar, Mr. V., North Reddyroostank St., Kumbakonan, India.
Manning, W. W., P. O. Box 1778, Boston, Mass.
Marburg, Theodore, 14 Mount Vernon Place, W., Baltimore, Md.
Marbury, W. L., Maryland Trust Building, Baltimore, Md.

Marietta College Library, Marietta, O.
Martin, E. E., 32 Northfield Ave., Cleveland, O.
Martin, Mrs. Selden Osgood, 8 Mason St., Cambridge, Mass.
Martzolff, C. L., Ohio University, Athens, O.
Marvel, Josiah, 333 Du Pont Building, Wilmington, Del.
Mason, Augustus L., 1006 N. Delaware St., Indianapolis, Ind.
Massachusetts Institute of Technology, Library of, Boston, Mass.
Massachusetts State Library, State House, Boston, Mass.
Mather, Samuel, Western Reserve Building, Cleveland, O.
Mathews, J. M., 417 Lincoln Hall, University of Illinois, Urbana, Ill.
Mathews, Mrs. L. K., The Langdon, Madison, Wis.
Matienzo, Mr. Jose Nicolas, 3770 Calle Santa Fe, Buenos Aires, Argentina, S. A.
Matsuoka, Masav, Hachinoke, Mutsu, Japan.
Matthews, Albert, Hotel Oxford, Boston, Mass.
Maynard, James Jr., Empire Building, Knoxville, Tenn.
Mead, Daniel W., University of Wisconsin, Madison, Wis.
Mead, Edwin D., World Peace Foundation, 29a Beacon St., Boston, Mass.
Mead, Nelson P., 1601 Jerome Ave., New York City.
Meagley, Mr. George C., The Sherman, Washington, D. C.
Mechem, Floyd R., 5714 Woodlawn Ave., Chicago, Ill.
Medford Public Library, Medford, Mass.
Mee, Martin, First National Bank, Gladbrook, Ia.
Mei, K. T., 433 Murray St., Madison, Wis.
Meigs, Wm. M., 460 Drexel Building, Philadelphia, Pa.
Melby, C. A., 700 Orchard St., Northfield, Minn.
Melville & Muller, 62 Pine St., San Francisco, Calif.
Mercantile Library, St. Louis, Mo.
Merrell, John P., Riggs National Bank, Washington, D. C.
Merriam, C. E., University of Chicago, Chicago, Ill.
Merrill, Mr. Ray March, 37 Avenue de Parc de Montsouris, Paris, France.
Merriman, R. B., 175 Brattle St., Cambridge, Mass.
Merten, Frederick H., Greeley, Col.
Meyer, Ernst, 725 Southern Bldg., Washington, D. C.
Meyer, Hermann H. B., Library of Congress, Washington, D. C.
Meyerholz, Charles, Iowa State Teachers' College, Cedar Falls, Ia.
Miami University Library, Oxford, O.
Michigan Agricultural College, East Lansing, Mich.
Michigan, Library of University of, Ann Arbor, Mich.
Michigan State Library, Lansing, Mich.
Michigan State Normal College, Ypsilanti, Mich.
Mijnef, P., Technological Institute, St. Petersburg, Russia.
Milburn, John G., 16 W. 10th St., New York City.
Miller, Albert O., Jr., Main and Howe Aves., Passaic, N. J.
Miller, Clarence A., American Consul, Tampico, Mexico.
Miller, George V., 316 Juneau Ave., Milwaukee, Wis.
Miller, Mr. W. B., James Building, Chattanooga, Tenn.

Milner, B. C., Office of General Manager, Cumberland Railroad Company, Warren, Ky.
Minneapolis Athenaeum, Minneapolis, Minn.
Milwaukee Public Library, Milwaukee, Wis.
Minnesota, Library of University of, Minneapolis, Minn.
Minnesota State Library, St. Paul, Minn.
Minnesota Tax Commission, Capitol, St. Paul, Minn.
Minor, Wirt, 1016 Spalding Building, Portland, Ore.
Mirza, Y. B., The Johns Hopkins University, Baltimore, Md.
Misch and Thron, Messrs., 126 Rue Royale, Brussels, Belgium.
Mississippi Agricultural and Mechanical College, Agricultural College, Miss.
Missoula Public Library, Missoula, Montana.
Missouri Library Commission, Legislative Reference Department, Jefferson City, Mo.
Missouri, University of, Columbia, Mo.
Mitchell, Wm. Hugh, Tempster, Sullivan Co., N. H.
Mitchell's Book Store, Buenos Aires, Argentine Republic, S. A.
Mizer, Charles M., 715 Rockhill St., Fort Wayne, Ind.
Mocquot, James D., Paducah, Ky.
Moeller, Ernest A., 503 Pioneer Building, St. Paul, Minn.
Mohrenstecher, G. A., Long Beach, Cal.
Monmouth, College Library, Monmouth, Ill.
Montague, A. J., Richmond, Va.
Montana, Library of University of, Missoula, Montana.
Montana State Normal College, Dillon, Montana.
Moody, Mary Grace, 199 Elm St., West Haven, Conn.
Moore, Blaine F., University of Wisconsin, Madison, Wis.
Moore, John B., Dept. of State, Washington, D. C.
Moore, John W., The Citadel, Charleston, S. C.
Moore, W. V., 1055 Woodward Ave., Detroit, Mich.
Morales, E. A., Legacion de Panama, Washington, D. C.
Morales, Luis Munoz, Box 112, San Juan, Porto Rico.
Moran, Thos. F., Purdue University, Lafayette, Ind.
Moreno, Dr. I. Ruiz, Charcas 1459, Buenos Aires, Argentina, S. A.
Morey, Wm. C., 94 Oxford St., Rochester, N. Y.
Morris, Henry C., 204 Dearborn St., Chicago, Ill.
Morris Seymour, 112 W. Adams St., Chicago, Ill.
Morrison, A. F., Crocker Building, San Francisco, Cal.
Morrison, James W., 719 Rush St., Chicago, Ill.
Morse, A. D., Amherst College, Amherst, Mass.
Morse, A. E., 223 Fourth St., Marietta, O.
Morse, E. L. C., 7411 Bond Ave., Chicago, Ill.
Moses, Bernard, University of California, Berkeley, Cal.
Moss, Frank, 299 Broadway, New York City.
Mount Holyoke College Library, South Hadley, Mass.

Mt. Union College Library, Alliance, O.
Moynihan, Charles J., Montrose, Col.
Mulkey, Frederick W., Mulkey Block, Portland, Ore.
Municipal Library, Budapest, Austria-Hungary.
Municipal Reference Department, Free Library, Room 507, City Hall, Philadelphia, Pa.
Municipal Reference Library, City of Chicago, 1005 City Hall, Chicago, Ill
Municipal Reference Library, 8th Floor, City Hall, Milwaukee, Wis.
Municipal Reference Library, 380 Broadway, New York City.
Municipal Research, Bureau of, Cincinnati, O.
Munro, Wm. B., 21 Dana Chambers, Cambridge, Mass.
Musselman, D. Paul, 430 W. Hoetter St., Philadelphia, Pa.
Myers, Wm. S., Princeton University, Princeton, N. J.

Nash, L. J., Manitowoc, Wis.
National Association of Credit Men, 41 Park Row, New York City.
National Child Labor Committee, 105 E. 22nd St., New York City.
Nebraska, Library of University of, Lincoln, Neb.
Nebraska State Library, Lincoln, Neb.
Nebraska State Normal School, Wayne, Neb.
Neeser, Robert W., 247 Fifth Ave., New York City.
Neill, Charles P., 165 Broadway, New York City.
Neu, Clarence L., 4547 Perry St., Chicago, Ill.
Nevada, Library of University of, Reno, Nevada.
Newark Free Public Library, Newark, N. J.
Newberry, Byron W. Strawberry Point, Ia.
Newberry Library, Chicago, Ill.
Newcomb, Harry T., R. F. D. 1, Bethseda, Montgomery Co., Md.
Newcomb, Walter, Corning, Ia.
New Hampshire College Library, Durham, N. H.
New Hampshire State Library, Concord, N. H.
New Orleans Public Library, New Orleans, La.
New York Public Library, 476 Fifth Ave., New York City.
New York State Library, Albany, N. Y.
New York University Library, New York City.
Nichols, Marian C., 31 Beacon St., Boston, Mass.
Nieman, L. W., The Milwaukee Journal, Millwaukee, Wis.
Niles, Alfred S., The Court House, Baltimore, Md.
Nimmo, H. M., Detroit Saturday Night, Detroit, Mich.
Noel, E. F., Lexington, Miss.
Normal College, Park Ave. and 68th St., New York City.
North Carolina, University of, Chapel Hill, N. C.
North Dakota Tax Commission, State Capitol, Bismarck, N. D.
Northcutt, Jesse G., Trinidad, Col.
North Dakota Public Library Commission, Bismarck, N. D.
North Dakota, Library of State University of, University, N. D.
Northwestern University Library, Evanston, Ill.

Norton, Henry K., 230 Security Building, Los Angeles, Cal.
Norwegian Nobel Institute, Drammensvei 19, Kristiania, Norway.
Norwood, J. Nelson, Alfred University, Alfred, N. Y.
Nutter, George R., 8 W. Cedar St. Boston, Mass.

Oberlin College Library, Oberlin, O.
Obernauer, Harold, 1841 Center Ave., Pittsburgh, Pa.
Ogg, Frederick Austin, 401 Broadway, Cambridge, Mass.
Ohio State Library, Columbus, O.
Ohio State University Library, Columbus, O.
Ohio Wesleyan University Library, Delaware, O.
Oklahoma, Library of University of, Norman, Oklahoma.
Olney, Richard, 710 Sears Building, Boston, Mass.
Olson, M. N., University of Minnesota, Minneapolis, Minn.
Omaha Public Library, Omaha, Neb.
Onozuka, K., 36 Kobinata-Daimachi, Nichome, Koishikawa, Tokyo, Japan.
Ontario Legislative Library, Toronto, Ontario, Canada.
Opdyke, Wm. S., 20 Nassau St., New York City.
Oppenheim, Eli, 2042 Eutaw Place, Baltimore, Md.
Oregon Agricultural College, Corvallis, Ore.
Oregon, Library of University of, Eugene, Ore.
Oregon Library Commission, Eugene, Ore.
Orth, Samuel P., Cornell University, Ithaca, N. Y.
Ortiz, Fernando, Aguiar, 68, Havana, Cuba.
Oshkosh Public Library, Oshkosh, Wis.
Oster, Charles, 12 rue de Tournon, Paris, France.
Ostrogorski, M., Vassili ostrov 5th Line N. 10, St. Petersburg, Russia.
Otter, W. M., 1010 Third Ave., Louisville, Ky.
Otts, James C., Spartanburg, S. C.
Overbeck, Baron Alfred von, Villa Félix, Fribourg, Switzerland.
Owen, Thomas M., Department of Archives and History, Montgomery, Ala.
Owens, Oscar Lee, Johns Hopkins University, Baltimore, Md.

Pacific, Library of the College of the, San Jose, Cal.
Page, Howard W., 700 West End Trust Building, Philadelphia, Pa.
Park College Library, Parkville, Mo.
Parke, Francis Neal, Westminster, Md.
Parker and Son, 27 Broad St., Oxford, England.
Parker, Alton B., 14 Wall St., New York City.
Parker, B. L., Green Bay, Wis.
Parkhurst, F. H., Bangor, Me.
Parkinson, J. B., Madison, Wis.
Parkinson, Thomas I., 133 S. 12th St., Philadelphia, Pa.
Library of Parliament, Ottawa, Canada.
Parrish, Ro. L., Covington, Va.
Parsons, Jessie M., Case Library, Cleveland, O.
Patten, Frank C., Rosenberg Library, Galveston, Tex.
Patterson, Gaylord H., 840 Union St., Salem, Ore.

Paul, Winston, 301 Academy St., Jersey City, N. J.
Paullin, C. O., 231 B St., N. E., Washington, D. C.
Peake, Prof. J. F., Randolph-Macon Woman's College, Lynchburg, Va.
Pearson, George E., 325 Highland Ave., W. Somerville, Mass.
Peek, Burton F., Care Deere and Company, Moline, Ill.
Peine, Arthur F., 915 W. Nevada St., Urbana, Ill.
Pence, J. T., Boise, Idaho.
Pennsylvania, Library, University of, Philadelphia, Pa.
Pennsylvania State College, Carnegie Library, State College, Pa.
Pérez, Antonio Gonzalo, Senado, Havana, Cuba.
Person, H. S., Amos Tuck School, Hanover, N. H.
Peters, William L., Riverside, Cal. Box 823.
Peterson, Samuel, 1810 Travis St., Houston, Tex.
Pezet, F. A., 2232 R St., Washington, D. C.
Philadelphia Free Library, 13th and Locust Sts., Philadelphia, Pa.
Philbrick, Francis S., 1023 H St., Lincoln, Neb.
Philippi, Mr. Julio, Santiago, Chili.
Philippine Assembly Library, Manila, P. I.
Philippines Library, Manila, P. I.
Philipps, E. L., 1206 Ry. Exchange, Milwaukee, Wis.
Phillips, Paul C., University of Montana, Missoula, Mont.
Pilot, Mr. H. William, Cleveland, O.
Plain, Frank G., 350 Coulter Block, Aurora, Ill.
Poe, Clarence H., Raleigh, N. C.
Political Science and Sociology, Department of, University of Nebraska, Lincoln, Neb.
Pollak, Walter Heilprin, Care Engelhard & Pollak, 111 Broadway, New York City.
Pomeroy, John Norton, University of Illinois, Urbana, Ill.
Pomona College Library, Claremont, Cal.
Pond, Oscar L., 1109 Law Building, Indianapolis, Ind.
Porras, Señor Belisario, Panama, Panama.
Portland Library Association, Portland, Ore.
Portland Public Library, Portland, Me.
Posada, Adolfo, Izquierda del Hipodromo, Chalet de las Rosas, Madrid, Spain.
Potter, Hon. Barrett, Brunswick, Me.
Potts, Mr. Charles Shirley, University Station, Austin, Tex.
Pound, Roscoe, Harvard Law School, Cambridge, Mass.
Powell, Fred. Wilbur, 261 Broadway, New York City.
Powell, J. N., Johnson City, Tenn.
Powell, Thomas Reed, Kent Hall, Columbia University, New York City.
Pratt Institute Free Library, Ryerson St., Brooklyn, N. Y.
Pray, Prof. J. S., 50 Garden St., Cambridge, Mass.
Prendergast, Wm. A., 500 5th St., Brooklyn, N. Y.
Prescott, A. T., 739 North St., Baton Rouge, La.
Preston, E. R., 1 and 3 Law Building, Charlotte, N. C.
Preston, Harold, 605 Lowman Building, Seattle, Wash.

Price, Ralph R., 826 Houston St., Manhattan, Kan.
Price, Warwick James, 512 S. 41st St., Philadelphia, Pa.
Princeton University Library of, Princeton, N. J.
Providence Public Library, Providence, R. I.
Provincial Library, Winnipeg, Manitoba, Canada.
Public Library, Long Beach, Cal.
Public Library, Hays and Franklin Sts., San Francisco, Cal.
Public Library, 10th and Felix Sts., St. Joseph, Mo.
Public Library, Municipal Branch, Room 208 City Hall, St. Louis, Mo.
Puig, Louise M., 40a Hampton Place, Brooklyn, N. Y.
Pulitzer, Jr., Joseph, Post-Dispatch, St. Louis, Mo.
Purdue University Library, Lafayette, Ind.
Putnam, J. W., Butler College, Indianapolis, Ind.
Putnam, Miss Mary B., Michigan State Normal College, Ypsilanti, Mich.
Putnam, W. R., Care Utah Power & Light Co., Salt Lake City, Utah.
Pyle, E. C., Story Building, Los Angeles, Cal.

Quesada, Don Gonzalo de, Cuban Legation, Berlin, Germany.
Quesada, Ernesto, Libertad 946 Buenos Ayres, Argentine Republic.
Quincy, Josiah, 15 State St., Boston, Mass.

Ragsdale, George, Tilden, Manual Training High School, Louisville, Ky.
Ragsdale, Mrs. Lena M., Care Jas. McClure, Paris, Ky.
Ralston, J. H., Washington, D. C.
Ramseyer, C. W., Bloomfield, Ia.
Randall, H. E., 945 Ashland Ave., St. Paul, Minn.
Randolph Edward F., 1654 Massachusetts Ave., Cambridge, Mass.
Randolph, Macon Woman's College, Political Science Department, College Park, Lynchburg, Va.
Rappard, W. E., Valavosa, near Geneva, Switzerland.
Rath, James A., B Palama Settlement, Honolulu, T. H.
Rawles, Wm. A., Indiana University, Bloomington, Ind.
Ray, P. O., State College, Pa.
Redlich, Josef, XIX Armbrustergasse 15, Vienna, Austria.
Reed, Alfred Z., Carnegie Foundation, 576 Fifth Ave., New York City.
Reed College Library, Portland, Ore.
Reed, Frank F., 841 Peoples Gas Building, Chicago, Ill.
Reeves, Jesse S., 902 Baldwin Ave., Ann Arbor, Mich.
Registrar The, Punjab University Library, Senate House, Lahore, India.
Reinsch, Paul S., State Department, Washington, D. C.
Repetto, Mr. Louis A., 204 Sheen Building, Atlantic City, N. J.
Reynolds, Dorrance, 92 So. River St., Wilkesbarre, Pa.
Reynolds Library, Rochester, N. Y.
Rhodes, James Ford, 392 Beacon St., Boston, Mass.
Rich, Burdett A., 18 Fairview Heights, Rochester, N. Y.
Richards, H. S., 640 Francis St., Madison, Wis.
Richards, R. O., Huron, S. D.
Richardson, Charles, 1307 Spruce St., Philadelphia, Pa.

Richardson, W. A., Quincy, Ill.
Richmond, T. C., Madison, Wis.
Richter, Erwin E., University Club, San Francisco, Cal.
Rinehart, C. D., Jacksonville, Fla.
Ripton, H. B., Union College, Schenectady, N. Y.
Risley, A. W., 703 Hudson Ave., Albany, N. Y.
Robbins, Edward D., 408 St. Ronau St., New Haven, Conn.
Roberts, Frank H. H., New Mexico Normal University, East Las Vegas, New Mexico.
Robertson, A. M., 1820 Dupont Ave., S., Minneapolis, Minn.
Robertson, George, Mexico, Mo.
Robertson, James A., Manila Library, Manila, P. I.
Robertson, W. S., 907 Nevada St., Urbana, Ill.
Robinson, Maurice Henry, University of Illinois, Urbana, Ill.
Robinson, Morgan P., 113 S. 3rd St., Richmond, Va.
Robinson, Prof. William A., Adrian College, Michigan.
Rochester, Library, University of, Rochester, N. Y.
Rockford Public Library, Rockford, Ill.
Rockwood, C. J., 1700 Thomas Place, Minneapolis, Minn.
Roden, Mrs. B. F., Marvel, Bibb County, Ala.
Rogers, F. E., 134 Museum St., Bloomsbury, London, England.
Rogers, Mr. F. The., Philippines Free Press, Manila, P. I.
Rogers, Lindsay, Johns Hopkins University, Baltimore, Md.
Rojas, P. Ezequiel, 1017 16th St., Washington, D. C.
Rolf, A. A., 9 S. La Salle St., Chicago, Ill.
Rose, John C., 311 P. O. Building, Baltimore, Md.
Rosenbaum, M., 605 S. 3rd St., Philadelphia, Pa.
Rosenthal, Lessing, 4245 Drexel Blvd., Chicago, Ill.
Ross, John M., Bisbee, Ariz.
Rossiter, W. S., Care Rumford Press, Concord, N. H.
Rowe, Leo S., University of Pennsylvania, Philadelphia, Pa.
Rowell, Chester H., Editor "Republican," Fresno, Cal.
Ruddock, Albert B., American Embassy, Berlin, Germany.
Rugg, Arthur P., 488 Pleasant St., Worcester, Mass.
Ruick, N. M., Overland Building, Boise, Idaho.
Russell, J. H., Allegheny College, Meadville, Pa.
Russell Sage Foundation, Room 20, 289 Fourth Ave., New York City.
Rutherford, Geddes W., 201 Broad St., Warrensburg, Mo.
Ryder, Thomas J., Acenida Juarez, No. 94, Apartado 1203, Mexico D. F., Mexico.
Ryland, William James, West Virginia Wesleyan College, Buckhannon, W. Va.
Ryman, James H. T., Western Montana National Bank, Missoula, Mont.

Saby, R. S., Cornell University, Ithaca, N. Y.
Sachs, Paul J., 60 Wall St., New York City.
Sachs, Ralph L., 28 W. 22nd St., New York City.
Sacramento Free Public Library, Sacramento, Cal.

Sage, Dean, 49 Wall St., New York City.
St. Joseph Public Library, 10th and Felix Sts., St. Joseph, Mo.
St Louis Public Library, 9th and St. Charles Sts., St. Louis, Mo.
St. Paul Public Library, St. Paul, Minnesota.
Sait, E. M., Faculty Club, Columbia University, New York City.
Salomon, Alberto, Ayacucho, 410 Izquierda, Lima, Peru.
Samson, Harry G., 433 6th Ave., Pittsburgh, Pa.
Sanborn, A. L., 210 Langdon St., Madison, Wis.
Sanborn, J. B., Wisconsin Building, Madison, Wis.
Sands, William Franklin, Central Aguirre, P. R.
Sanford, Allen T., 625 Boston Building, Salt Lake City, Utah.
Sanford, Henry Grusevoort, 112 E. 64th St., New York City.
San Francisco News Company, 747 Howard St., San Francisco, Cal.
Santos, José A., San Fernando, Pampanga, P. I.
Sargent, Thornton W., 410-412 Barnes Building, Wichita, Kan.
Saulsbury, Willard, 907 Market St., Wilmington, Del.
Sawtell, J. H., Iola, Kan.
Sawyer, Joseph H., Williston Seminary, Easthampton, Mass.
Saxe, Martin, 51 Chambers St., New York City.
Scarlet, James, Danville, Pa.
Schaffner, Margaret, A., Care R. R. Commission of Wisconsin, Madison, Wis.
Schaper, William A., 419 W. 118th St., New York City.
Schapiro, Dr. J. Salwyn, College of the City of New York, New York City.
Scherr, Harry, Williamson, W. Va.
Schmeckebier, L. F., 1444 Belmont St., Washington, D. C.
Schmidlapp, J. G., Cincinnati, O.
Schmidt, A. F. W., 2023 G Street, Washington, D. C.
Schmitt, Bernadotte E., Western Reserve University, Cleveland, O.
Schofield, William, 136 Sumner St., Malden, Mass.
Scholefield, E. O. S., Legislative Library, Victoria, B. C.
Schouler, James, Intervale, N. H.
Schubring, E. J. B., Jones and Schubring, Madison, Wis.
Schwarzschild, Mr. Monroe M., 115 Broadway, New York City.
Scott, Charles, Rosedale, Miss.
Scott, G. W., Columbia University, New York City.
Scott, J. B., Carnegie Peace Foundation, Washington, D. C.
Scott, R. B., Care Burlington Railway, Legal Department, Chicago, Ill.
Scott, W. M., Lincoln High School, Cleveland, O.
Scull, Charles O., 210 Ridgewood Road, Roland Park, Md.
Seaton, Fay N., 304 Senate Office Building, Washington, D. C.
Seattle Public Library, Seattle, Washington.
Sedgwick, S. H., Supreme Court Chambers, Lincoln, Neb.
Seevers, George W., Gen. Counsel M. and St. L. R. R. Company, Minneapolis, Minn.
Seligman, Edwin R. A., Columbia University, New York City.
Senning, John P., Wesleyan University, Middletown, Conn.
Serra, Manuel Rodriguez, San Juan, Porto Rico.
Shambaugh, B. F., State University, Iowa City, Ia.

Shaw, Albert, 13 Astor Place, New York City.
Shaw, O. W., Austin, Minn.
Shearer, Augustus H., Chicago Commons, Grand Ave. and Morgan St., Chicago, Ill.
Sheldon, A. E., Lincoln, Neb.
Shepard, Walter J., 807 Virginia Ave., Columbia, Mo.
Shephard, W. H., 2121 N. Emerson Ave., Minneapolis, Minn.
Sherman, Gordon E., Morristown, N. J.
Sherman, J. J., Supt. of Schools, Lohrville, Iowa.
Sherwood, Herbert Francis, Editorial Rooms, New York Tribune, New York City.
Sherwood, W. E., 1400 Continental Building, Baltimore, Md.
Shipman, H. R., 27 Mercer St., Princeton, N. J.
Shipman, L. E., Plainfield, N. H.
Shippee, Lester Burrell, Washington State College, Pullman, Wash.
Shortt, Adam, Civil Service Commission of Canada, Ottawa, Canada.
Siebert, Wilbur Henry, Ohio State University, Columbus, O.
Simmons College Library, Boston, Mass.
Simon, Mr. Franklin, 95 Riverside Drive, New York City.
Singewald, Karl, 17 W. 29th St., Baltimore, Md.
Sinha, B. C., 147 Baranasi Ghosis St., Calcutta, India.
Sioussat, St. George L., Vanderbilt University, Nashville, Tenn.
Sioux City Public Library, Sioux City, Ia.
Sites, C. M. Lacey, Anglo-Chinese College, Foochow, China.
Skelton, O. D., Queen's University, Kingston, Canada.
Smiley, Daniel, Mohonk Lake, Ulster Co., N. Y.
Smith College Library, Northampton, Mass.
Smith, Ethelbert T., Staten Island, New York.
Smith, George H., 508 Deserel News Building, Salt Lake City, Utah.
Smith, J. Allen, 4533 15th Ave., N. E., Seattle, Wash.
Smith, Luther Ely, 1718 Pierce Building, St. Louis, Mo.
Smith, Munroe, Columbia University, New York City.
Smith, Sam Ferry, Union Building, San Diego, Cal.
Smith, Tom K., 408 Olive St., St. Louis, Mo.
Smithers, William W., 1100 Land Title Building, Philadelphia, Pa.
Snavely, Charles, Westerville, O.
Snite, Mr. Frank J., Box 243, Elmhurst, Ill.
Snow, Alpheus H., 2013 Massachusetts Ave., N. W., Washington, D. C.
Somerville Public Library, Somerville, Mass.
South Carolina, Library of University of, Columbia, S. C.
Southern California, Library of University of, Los Angeles, Cal.
Sparling, S. E., Renssleaer, Ind.
Spearing, J. R, Masonic Temple, New Orleans, La.
Speer, Emory, Macon, Ga.
Spencer, C. W., 114 Fitz Randolph Road, Princeton, N. J.
Spencer, Henry Russell, Ohio State University, Columbus, O.
Speranza, Gino C., 40 Pine St., New York City.
Spingarn, J. E., 9 W. 73d St., New York City.

Springfield City Library Association, Springfield, Mass.
St. Paul Public Library, St. Paul, Minn.
Stanclift, Henry C., Cornell College, Mt. Vernon, Ia.
Steele, G F., Room 7, 1358 E. 47th St., Chicago, Ill.
Steiger and Company, E., 49 Murray St., New York City.
Steiner, Bernard, Enoch Pratt Library, Baltimore, Md.
Stephenson, Gilbert T., Winston-Salem, N. C.
Stern, David, Greensboro, N. C.
Sternheim, Rabbi Emanuel, 307 S. Shelby St., Greenville, Miss.
Stevens and Brown, 4 Trafalgar Square, London, W. C., England.
Stevens, E. Roy, Madison, Wis.
Stevens, F. C., House of Representatives, Washington, D. C.
Stevenson, Eugene, 580 Park Ave., Paterson, N. J.
Stewart, P. B., 123 Tyler Place, Colorado Springs, Col.
Steirling, Thomas, Law Department, State University, Vermillion, S. D.
Stockbridge, Henry, Gunther Building, Baltimore, Md.
Stockton, Admiral Charles H., 2019 O Street, Washington, D. C.
Stokely, J. F., Glen Iris Park, Birmingham, Ala.
Stokes, Mr. J. G. Phelps, 100 William St., New York.
Stoll, Richard C., Lexington, Ky.
Stone, A. H., Duleith, Miss.
Stone, Willmore B., Court Square Law Building, 15 Elm St., Springfield, Mass.
Storey, Moorfield, 735 Exchange Building, Boston, Mass.
Story, Russell M., Monmouth, Ill.
Stowell, E. C., University of Pennsylvania, Philadelphia, Pa.
Stratton, Daniel, Neosho, Mo.
Strong, Josiah, 80 Bible House, Astor Place, New York City.
Stroock, Sol. M., 30 Broad St., New York City.
Sullivan, Dr. James, Boys' High School, Putnam and Mary Aves., Brooklyn, N.Y.
Sullivan, J. J., Central National Bank, Cleveland, O.
Sullivan, P. F., 84 State St., Boston, Mass.
Sulzer, William, 115 Broadway, New York City.
Supreme Court Library, Salem, Ore.
Sutherland, W. A., University of Virginia, Box 390, University, Va.
Swarthmore College Library, Swarthmore, Pa.
Swift, William, H., 1309 Delaware Ave., Wilmington, Del.
Syracuse Public Library, Syracuse, N. Y.

Takamine, Jokichi, 550 W. 173d St., New York City.
Talbot, C. H., Librarian, Department of Legislative Reference, City Hall, Kansas City, Mo.
Tanaka, I., Imperial Library of Japan, Wyeno Park, Tokyo, Japan.
Taussig, Frank W., 2 Scott St., Cambridge, Mass.
Taylor, Archibald H., Harvest Road, Roland Park, Md.
Taylor, Daniel G., Third National Bank Building, St. Louis, Mo.
Taylor, Frederick C., Stamford, Conn.
Taylor, Graham, Chicago Theological Seminary, Hammond Library, 1610 Warren Ave., Chicago, Ill.

Tempe Normal School Library, Tempe, Ariz.
Temple, Henry, 400 Locust Ave., Washington, Pa.
Texas State Library, Austin, Tex.
Texas, University of, Austin, Tex.
Thacher, Mr. George A., 338 Tillamook St., Portland, Ore.
Thacher, Thomas, 62 Cedar St., New York City.
Thacher, Thomas D., 863 Park Ave., New York City.
Thom, W. L., 2022 N St., N. W., Washington, D. C.
Thomas, Dr. George, 217 E. Fourth North St., Logan, Utah.
Thomas, J. Hanson, 1010 St. Paul St., Baltimore, Md.
Thompson, Frederic L., Amherst College, Amherst, Mass.
Thompson, J. David, Library of Congress, Washington, D. C.
Thompson, John Giffen, 307 W. Illinois St., Urbana, Ill.
Thompson, M. W., 1337 Vine St., La Crosse, Wis.
Thorn, Paul C., State Law Library, Phoenix, Ariz.
Thorne, Clifford, State House, Des Moines, Ia.
Thornley, Wm. K., 28 Cushing St., East Side Station, Providence, R. I.
Thornton, Charles S., 705 Pullman Building, Chicago, Ill.
Thorpe, Francis Newton, University of Pittsburgh, Pittsburgh, Pa.
Thurber, Charles H., 29 Beacon St., Boston, Mass.
Thurston, Edward S., 1212 Fifth St., S. E., Minneapolis, Minn.
Tiffany, Prof. Edward Orrin, Western Maryland College, Westminster, Md.
Timlin, W. H., 1600 Grand Ave., Milwaukee, Wis.
Tobey, W. L., Hamilton, O.
Todd, Albert M., Kalamazoo, Mich.
Tomlin, J. G., Walton, Ky.
Tooke, Charles W., 12 Syracuse Bank Building, Syracuse, N. Y.
Toronto, Library of University of, Toronto, Canada.
Toulmin, H. A., Jr., Care Toulmin and Reid, Schwind Building, Dayton, O.
Treat, Payson J., Stanford University, Cal.
Trinity College Library, Durham, N. C.
Tryon, James Libby, 31 Beacon St., Boston, Mass.
Tucker, H. R., 110 Bompart Ave., Webster Groves, Mo.
Tufts College, Library of, Tufts College, Mass.
Tulane University Library, St. Charles Ave., New Orleans, La.
Turner, Prof. Frederick J., 153 Brattle St., Cambridge, Mass.
Turney, W. W., Care Turney and Burges, El Paso, Tex.
Twietmeyer, A., Jollertstrasse 16, Leipzig, Germany.

U. S. Naval War College, Newport, R. I.
University Club Library, Monroe and Michigan Ave., Chicago, Ill.
Updyke, Frank A., Dartmouth College, Hanover, N. H.
Upson, L. D., Dayton Bureau of Municipal Research, Dayton, O.
Usher, Ellis B., 1136 Wells Building, Milwaukee, Wis.
Valente, Louis A., 21 Charlton St., New York City.
Vance, W. R., University of Minnesota, Minneapolis, Minn.
Varian, C. S., 235 S. 6th East St., Salt Lake City, Utah.
Vassar College, Library of, Poughkeepsie, N. Y.

Vaughan, Athelstan, 185 Newton Ave., Astoria, L. I., N. Y.
Vaughan, John H., State College, New Mexico.
Vernier, Prof. Chester G., College of Law, University of Illinois, Urbana, Ill.
Verril, H. M., 191 Middle St., Portland, Me.
Vert, C. J., 45 Broad St., Plattsburgh, N. Y.
Viallate, Achille, Care Bourliand, 19 Rue d' Odessa (14e), Paris, France.
Vierling, Frederick, 6255 Waterman Ave., St. Louis, Mo.
Vilas, Charles A., Box 53, Evanston, Ill.
Villard, O. G., 20 Vesey St., New York City.
Vincent, George E., 1005 Fifth St., S. E., Minneapolis, Minn.
Vineyard, J. J., 3643 Wyandotte St., Kansas City, Mo.
Vinogradoff, P., Court Place, Iffley, Oxford, England.
Vinson, Mr. Z. T., Huntington, W. Va.
Vrooman, Carl S., Bloomington, Ill.
Virginia State Library, Richmond, Va.

Wabash College Library, Crawfordsville, Ind.
Waddell, W. G., Webster, S. D.
Walker, Mr. Legare, Summerville, S. C.
Walker, M. E., 201 6th St., Racine, Wis.
Wallace, Benjamin B., 707 Church St., Evanston, Ill.
Wallace, Miss Janet Monroe, 2420 Harney St., Omaha, Neb.
Wallin, Wm. J., 16 Livingston Ave., Yonkers, N. Y.
Walling, W. E., Cedarhurst, L. I., New York.
Walmsley, James Elliott, Winthrop Normal and Industrial College, Rock Hill, S. C.
Walrath, A. L., 211 Normal Av., Macomb, Ill.
Walsh, James A., Helena, Mont.
Walsh, Thomas F., Colorado Building, Washington, D. C.
Wambaugh, Eugene, Harvard University Law School, Cambridge, Mass.
Ward, George Cabot, 32 Liberty St., New York City.
Warren Public Library, Warren, O.
Warren Public Library, Warren, Pa.
Washburn College, Librarian of, Topeka, Kansas.
Washington and Lee University, Library of, Lexington, Va.
Washington State College, Library of, Pullman, Wash.
Washington State Law Library, Olympia, Wash.
Washington State Library, Olympia, Wash.
Washington University Library, St. Louis, Mo.
Washington, University of, Library of, Seattle, Wash.
Watchorn, Robert, Union Oil Building, Los Angeles, Cal.
Watson, Mr. David K., Chamber of Commerce, Columbus, O.
Weaver, Jr., J. B., Citizens National Bank Building, Des Moines, Ia.
Weaver, James R., DePauw University, Greencastle, Ind.
Welch, Thomas F., 49 E. 130th St., New York City.
Wellesley College Library, Wellesley, Mass.
Wellington, Raynor G., 225 North University St., Vermillion, S. D.

Wellington, Stanwood, G., 27 Circuit Road, Chestnut Hill, Mass.
Wells, Amos R., 40 Williston Road, Auburndale, Mass.
Wells College Library, Aurora, N. Y.
Wesleyan University, Middletown, Conn.
West Texas State Normal School, Canyon, Tex.
West Virginia University Library of, Morgantown, W. Va.
Western State Normal School, Kalamazoo, Mich.
Weston, N. A., 601 Daniel St., Champaign, Ill.
Weston, Mr. Stephen F., Yellow Springs, O.
Weyl, Walter E., Woodstock, N. Y.
Wheelwright, Wm. D., Portland, Ore.
Whinery, Charles C., 120 West 32d St., New York City.
Whitcomb, H. F., Colby and Abbot Building, Milwaukee, Wis.
White, James, Conservation Commission, Ottawa, Canada.
White, John B., 1111 Long Building, Kansas City, Mo.
White, J. LeRoy, 2400 W. North Ave., Baltimore, Md.
White, Leonard D., Hanover, N. H.
White, Melvin J., 1004 Webster St., New Orleans, La.
White, Peter, 1117 Harris Trust Builnding, Chicago, Ill.
White, William G., 513 Globe Building, St. Paul, Minn.
Whitman College, Library of, Walla Walla, Washington.
Whitney, Travis H., Tribune Building, New York City.
Whitridge, Frederick W., 59 Wall St., New York City.
Whitten, R. H., Public Service Commission, Tribune Building, New York City.
Whittlesey, W. L., 400 Riverside Drive, New York City.
Wierum, Otto C., Jr., 27 William St., New York City.
Wigmore, J. H., Law School, Northwestern University, Chicago, Ill.
Wilcox, Delos F., 75 6th St., Elmhurst, N. Y.
Wiley, Edwin, Library of the University of California, Berkeley, Cal.
Wilgus, H. L., 1547 Washtenau Ave., Ann Arbor, Mich.
Wilgus, James Alva, State Normal School, Platteville, Wis.
Wilkinson, H. S., 720 Onodaga Bank Building, Syracuse, N. Y.
Willard, E. S., 52 William St., New York City.
Willard, James F., 1513 Spruce St., Boulder, Colo.
Willcox, P. A., Florence, S. C.
Willcox, W. R., 11 E. 45th St., New York City.
Willets, Elmore A., Belmont, N. Y.
Williams College Library, Williamstown, Mass.
Williams, Ellis D., 560 Drexel Building, Philadelphia, Pa.
Williams, E. Randolph, 826 W. Franklin St., Richmond, Va.
Williams, G. C. F., 990 Prospect Ave., Hartford, Conn.
Williams, Ira Jewell, 1005 Morris Building, 1421 Chestnut St., Philadelphia, Pa.
Williams, Joel Clifton, 536 Washington St., Dedham, Mass.
Williams, John G., 1211 N. Delaware St., Indianapolis, Ind.
Williams, P. L., Deseret News Building, Salt Lake City, Utah.
Williams, T. S., Huntington, L. I.

Williamson, C. C., 476 Fifth Ave., New York City.
Willoughby, William F., Princeton University, Princeton, N. J.
Willoughby, W. W., Johns Hopkins University, Baltimore, Md.
Wilmington Institute, Library of, Wilmington, Del.
Wilson, George Grafton, Harvard University, Cambridge, Mass.
Wilson, Hugh M., 239 W. 39th St., New York City.
Wilson, J. E., 528 S. Fifth Ave., Chicago, Ill.
Wilson, Scott, 55 Beacon St., Woodfords, Me.
Wilson, President Woodrow, Washington, D. C.
Winona Normal School, Winona, Minn.
Wisconsin, Library of University of, Madison, Wis.
Wisconsin State Library, Madison, Wis.
Wisconsin Tax Commission, Madison, Wis.
Wise, J. C., Virginia Military Institute, Lexington, Va.
Wolf, Adolph G., San Juan, Porto Rico.
Wolff, Solomon, 909 Canal-Louisiana Building, New Orleans, La.
Wood, Frank H., Hamilton College, Clinton, N. Y.
Wood, Frederick A., 295 Pawtucket St., Lowell, Mass.
Wood, Stuart, 400 Chestnut St., Philadelphia, Pa.
Woodburn, James Albert, Indiana State University, Bloomington, Ind.
Woodhouse, Edward J., 703 Yale Station, New Haven, Conn.
Woodin, G. W., 319 Central Ave., Dunkirk, N. Y.
Woodruff, C. R., North American Building, Philadelphia, Pa.
Woods, Frank H., 1220 S. 20th St., Lincoln, Neb.
Woolsey, Theodore S., Forest Service, Washington, D. C.
Woodward, Frank E., 48 Abbot Road, Wellesley Hill, Mass.
Woodward, S. W., 2015 Wyoming Ave., Washington, D. C.
Woodworth, Arthur Heath, Hanover, Indiana.
Worcester Library, Worcester, Mass.
Wright, A. B., 1107 W. Oregon St., Urbana, Ill.
Wrong, Prof. G. M., University of Toronto, Toronto, Canada.
Wyer, James I., Librarian, New York State Library, Albany, N. Y.

Yale Law Library, New Haven, Conn.
Yancey, David W., Manila, P. I.
Yanktown College Library, Yanktown, S. D.
Yeomans, Henry A., 72 Trapelo Road, Belmont, Mass.
Youmans, F. A., Fort Smith, Ark.
Young, Allyn A., Cornell University, Ithaca, N. Y.
Young, E. W., Law Department, Baltimore and Ohio Railroad, Baltimore, Md.
Young, H. O., The Portland, Washington, D. C.
Young, J. S., University of Minnesota, Minneapolis, Minn.
Young, James T., University of Pennsylvania, Philadelphia, Pa.

Zilma, Raymond Theodore, 223 W. Gilman St., Madison, Wis.

REPORT OF THE SECRETARY

of the

American Political Science Association

for the year 1913

The tenth annual meeting of the Association was held at Washington, December 30, 1913 to January 1, 1914. The address of Prof. W. W. Willoughby, President of the Association, on "The Individual and the State," appears in the *American Political Science Review* for February, 1913. Dr. Ernest Brunken's paper on "Some Neglected Factors in Law Making," will appear in a later number of the *Review*. The other papers and reports presented at the meeting are published in volume X of the *Proceedings*, which is issued as a supplement to the February number of the *Review*.

The annual business meeting of the Association was held January 1, 1914, at which the following business was transacted:

The secretary reported that when the records of the Association came to him in January, 1913, there were 1550 members, and that the membership at the end of the year was substantially the same, more than one hundred members having been dropped toward the end of the year bebecause of non-payment of dues.

The treasurer reported that the net receipts for the current year had exceeded those for the preceding year, but that expenditures had correspondingly increased. A deficit of $238.93 from 1912 had to be met from 1913 receipts, and after meeting this deficit the receipts for 1913 have not been quite sufficient to meet all expenses.

The eleventh annual meeting of the Association, it had already been voted at the Boston meeting in 1912, is to be held in Chicago during the Christmas holidays of 1914.

The managing editor of the *Review* reported that the executive council had approved the following changes on the editorial board: Mr. John A. Lapp to succeed Prof. A. R. Hatton; Prof. W. F. Willoughby to succeed Prof. H. J. Ford; Dr. J. M. Mathews to succeed Prof. Jesse S. Reeves.

The nominating committee, appointed by the president, was composed of Profs. J. H. Latané (Chairman), J. W. Garner, W. B. Munro, N. Dwight Harris, and F. A. Updyke. The following officers for 1914 were nominated and elected: President, John Bassett Moore; First Vice-President, Charles E. Merriam; Second Vice-President, George G. Wilson, Third Vice-President, L. S. Rowe; Secretary and Treasurer, W. F. Dodd.

As members of the executive council to serve until December 31, 1916: Charles McCarthy, W. J. Shepard, N. D. Harris, E. M. Borchard, S. Gale Lowrie.

The following resolutions were presented to the Association by the executive council, and were adopted:

WHEREAS, This Association has, as one of its main objects the encouragement of perfect freedom of political discussion; and

WHEREAS, This is essential to the progress of political science;

Therefore be it resolved: That a committee of three be constituted to examine and report upon the present situation in American educational institutions as to liberty of thought, freedom of speech, and security of tenure for teachers of political science.

That a committee be authorized to coöperate with any similar committees which may be constituted by other societies in the field of the social sciences.

WHEREAS, it is stated in the annual report of the director of the census that material changes are proposed to be made in the publication of census information on occupations; and

WHEREAS such information is absolutely essential in the construction of occupational mortality tables and in the furtherance of the study of occupational diseases and accidents, and for the use of commissions on workmen's compensation, on prevention of industrial accidents and diseases, industrial boards and bureaus, and other public bodies dealing with these and related subjects;

WHEREAS a special committee on census methods has recommended the abandonment of a complete and scientific tabulation and analysis of the occupational data originally collected and incompletely analysed, at great expense to the government; and

WHEREAS the present opportunity is the best possible for attaining the required information at the least expense, if the existing cards are subjected to a second run, and thus tabulated in the required manner by age and sex, and this opportunity will be immediately lost if this work be not done at this time;

Be it resolved that the American Political Science Association most earnestly protests against the proposed abandonment of the tabulation and analysis of the occupational data of the thirteenth census and therefore urgently calls upon congress to make without delay the required provision for the preparation and publication of the same.

Reports of committees on legislative methods, city and county government, and on practical instruction in government were presented at the business meeting. A separate session was devoted to instruction in government, and the report of the Association's committee on this subject was presented at that time.

The secretary presents as a part of his report the following minutes of business transacted by the executive council and board of editors of the *Review*, meeting jointly:

At the meeting held at the University Club, Chicago, November 15, 1913, the following were present: W. W. Willoughby, Ernst Freund, J. Q. Dealey, Isidor Loeb, Charles McCarthy, W. A. Schaper, T. F. Moran, J. S. Reeves, J. W. Garner, W. F. Dodd.

Tentative reports were made by the secretary-treasurer and the managing editor of the *Review*. An enlargement of the *Review* to 190 pages was authorized, should the managing editor and the secretary-treasurer think this feasible. The printing contract for the *Review* was left within the discretion of the managing editor. The general policy of the *Review* was discussed, and the opinion expressed in favor of strengthening the department of legislative notes and of devoting more attention to foreign politics.

Professor Reeves reported with reference to the program, and Professor Willoughby reported with reference to local arrangements for the Washington meeting, and the action of the committees having these matters in charge was approved.

Tentative reports of all committees of the Association were received. It was agreed that so far as possible committee reports be published in full. An appropriation of $25 was made to the committee on city and county government. An appropriation not exceeding $250 was continued to assist in defraying expenses of members of the executive council and board of editors.

It was voted that the Executive Council hold its next fall meeting in Baltimore, November 14, 1914.

At the meeting held December 31, 1913, and upon adjournment, on January 1, 1914, in the Shoreham Hotel, Washington, D. C., the following were present: W. W. Willoughby, Herbert Croly, J. Q. Dealey, T. F. Moran, J. A. C. Chandler, W. A. Schaper, Robert H. Whitten,

J. W. Garner, Ernst Freund, Charles McCarthy, W. B. Munro, W. F. Dodd. Prof. Charles G. Haines, chairman of the committee on instruction in government, and Prof. Clyde L. King, chairman of the committee on city and county government, were also present upon invitation.

Two resolutions submitted to the executive council were ordered presented to the Association.

It was voted to abolish the committee on state governments and to continue the committees which had previously been appointed by the Association. The president was authorized to increase the membership of the committee on legislative methods. A new committee on ballot forms was authorized. An appropriation of $100 was made to the committee on instruction in government, and this committee was authorized to coöperate with the Bureau of Education and with committees of the National Municipal League and the National Educational Association.

The president appointed W. A. Schaper, Robert H. Whitten, and Thomas F. Moran a committee to audit the accounts of the treasurer. The same committee was authorized to audit the accounts of the committee on practical instruction in government; this committee was authorized to handle its funds through the treasurer of the Association. The treasurer was authorized, in his discretion, to bond himself.

The sum of $250 was appropriated for clerical assistance for the managing editor of the *Review,* and $100 was appropriated for legislative notes.

The matter of using somewhat heavier paper in the publication of the *Proceedings* was left to the discretion of the managing editor, as was also the matter of publishing important documents in the *Review.*

The secretary was instructed to obtain an estimate of the cost of preparing and issuing an index to the publications of the Association.

REPORT OF THE TREASURER FOR THE YEAR 1913[1]

RECEIPTS

Received from former treasurer, January, 1913	$410.84
Membership dues:	
1909	3.00
1910	24.00
1911	75.00
1912	221.00
1913	3,158.04
1914	84.00
1915	3.00
Subscription dues:	
1912	15.00
1913	197.40
1914	60.00
Bound *Proceedings*	48.40
Publications	197.21
Life membership dues	70.00
Reprints	37.00
Received from Boston committee on local arrangements[2]	75.97
Miscellaneous	243.46
Total receipts	$4,923.32

EXPENDITURES AGGREGATED

Miscellaneous expenses, 1912	$649.77
Refunds	39.00
Clerical assistance to secretary and treasurer	282.28
Clerical assistance to editor and money advanced	189.83
Postage and expressage	141.55
Printing of *Review* for 1913	2,987.05
Miscellaneous printing	277.66
Legislative notes	100.00
November council meeting	134.80
Committee on practical methods	25.00
Miscellaneous	16.35
Total expenditures	$4,843.29
Balance (of which $70 is in trust account)	80.03

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[1] Accounts closed, December 20, 1913.

[2] To be used for entertainment at future meetings.

We the undersigned committee appointed to audit the accounts of the treasurer have examined the statement of receipts and expenditures together with the bank books and cancelled checks and find the same to be correct.

WM. A. SCHAPER,
ROBERT H. WHITTEN,
THOMAS F. MORAN.

PAPERS AND DISCUSSIONS

NATURE AND SCOPE OF PRESENT POLITICAL THEORY

BY RAYMOND GARFIELD GETTELL

Trinity College, Conn.

One of the fundamental differences that distinguish human beings from the lower forms of life is their respective relations to their environments. All living creatures except man are at the mercy of their surroundings. They live under conditions which are not of their making and which are but little changed by their efforts. No conscious purpose nor definite idea of progress is possible among them. They live in a world of nature and are constantly limited by its conditions, being unable to control it or to change their own destiny by their own deliberate actions.

The relation of man to his environment is essentially different.[1] While, in primitive times, man, like the lower creatures, lived at the mercy of nature and developed in accordance with the laws of natural evolution, a point was reached later when human reason began to modify its environment. Natural phenomena were investigated and understood and conscious direction and purpose gradually replaced the earlier and purely physical relation between man and nature. This was the case, not only with the physical environment, composed of those geographic and climatic conditions and their resultant natural resources, within which all life exists, but also of the social environment, composed of those ideas, associations and institutions that make up the non-physical life of man. In the same way that man began to investigate nature, learn her laws, bring her powers under his control, and utilize her resources, so man began to question the psychical and social conditions that surrounded him, to examine their nature, to question their authority, and finally to plan deliberate change and progress. All early social institutions, therefore, arose and for a time developed unconsciously. Only gradually did man realize their existence and the possibility of directing or improving them by his own purposeful efforts.

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[1] Kelly, *Government or Human Evolution: Justice*, bk. II.

Of all these social institutions the *state* has been one of the most universal and most powerful. Some form of organization and authority has been found wherever human life has existed, and a sanction of some kind has enforced some sort of rules. In the process of human development it was, therefore, inevitable that man should investigate this institution, should attempt to discover its origin, should question or uphold its authority, and should dispute over the proper scope of its functions. As the outcome of this process arose political theory. The associated life of man, arising spontaneously and growing at first without conscious direction, came later under the scrutiny of man's reason; and attempts were made, crude enough in the beginning, to explain the nature of political phenomena. Increasing powers of observation and of logical analysis built up a constantly widening sphere of political speculation, and the development of the state in its objective phase of organization and activity was, accordingly, accompanied by its subjective phase—the theory of the state—in the minds of men.

It is evident that, at any given time, a close relation must exist between the political theory of that period and the actual political conditions then existing.[2] Occasionally, philosophers may speculate concerning the ideal state or may draw pictures of political conditions as, in their own opinions, they should be. Even this type of political theory, however, will, if closely examined, prove to be based on the political ideals of its time, and will usually be aimed at certain specific evils to which the conditions then prevailing gave rise. Ordinarily, political theories are the direct result of objective political conditions. They reflect the thoughts and interpret the motives that underlie actual political development. They indicate the spirit and conditions of their age. On the other hand, political theories also influence political development. They are not only the outgrowth of actual conditions but they, in turn, lead men to modify their political institutions. Political theories are thus both cause and effect. Changing conditions create new theories; these in turn influence actual political methods.

It therefore follows that much of the political theory of any given time is not put into definite or comprehensive statement. It is found tacitly underlying the form of actual political organization and methods. Where there is one philosopher who is occupied in an impartial attempt to build up a complete system of political theory, there are hundreds of politicians who are interested in a more or less selfish or one-sided political principle which they desire to see incorporated into political practice. Questions of policy almost always require a broad theoretical basis for rejection or approval. Accordingly, political theory must be sought, not only in the writings of those who deliberately attempt to formulate a systematic statement of its principles, but even more in the fugitive and ephemeral opinions of those engaged in actual politics and in the public opinion to which they appeal.[3] The political theory of the United States illustrates this fact. Americans have seldom been interested in systematic politics; our governmental organization and policy have, in fact, been characterized by frequent inconsistencies. Yet our whole national history has centered around certain political theories which have been powerful enough to cause men to sacrifice for them their lives, and which have now become a part of our national habit of thought.[4] American patriotism, indeed, is a feeling of reverence, not so much for the soil or for the citizen as for certain political ideals, many of which have commonly been accepted as absolute; some at least becoming obstructive to needed change.

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[2] Willoughby, *Political Theories of the Ancient World,* Preface.

At the present time political theory is of particular interest and importance.[5] The modern state is finding itself, is settling upon its first principles, is directing its growth, and deciding upon the proper nature and extent of its activities. The tendencies of the times point toward an expansion of state function that has enormous possibilities for good or evil. In the complex civilization of the present day the relations of state to state and of state to individual demand constant adjustment and readjustment; and this process should rest upon definite and clearly realized principles as to the nature and purpose of political institutions. A knowledge of the origin and development of political organizations and ideas is essential to any successful attempt at explaining or appreciating those of the present, and a realization of the proper purpose and limits of state action would both hasten real progress and prevent extreme and radical attempts at the impossible.[6]

Moreover, a fundamental change of mental attitude is now revolutionizing political theory. The former attitude was deductive, based on certain axioms as to the traditional nature of political institutions and authority. From these premises conclusions were reached by logic as to what should be, and political conditions were judged, not in accordance with actual circumstances, but in accordance with prevailing ideals based upon the fundamental assumptions. At present political theory is inductive. As Professor Ford says:

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[3] Hart, *Actual Government*, p. xxxiv.

[4] Merriam, *American Political Theories*.

[5] Beard, "Politics," Lecture delivered at Columbia University, February, 1908.

[6] Willoughby, "The Value of Political Philosophy" in *Political Science Quarterly*, December 1907.

> Political phenomena are observed and classified, and generalizations are made from data thus collected. . . . . Instead of considering first what ought to be, the aim is to consider first what is. As a result, treatises on government are appearing that are not doctrinal in character, like our older manuals on civics and politics, but are descriptive and expository, telling simply and plainly how the public authority under consideration is organized, how it works and with what results. They are studies of political structure and function, conceived in the same scientific spirit as that of a zoölogist examining the fauna of a particular region.[7]

It remains to add that political theory is essentially relative in its nature. In the past it grew out of actual conditions and of existing methods of thought; at present it represents our understanding of the political world in which we live and the political ideals in which we believe. No theory of the state can be considered as ultimate truth. A century hence, under the changed conditions of that time, our present attitude toward political problems may seem as crude and absurd as many of the theories that have arisen in the past now seem to us. This does not, however, diminish the necessity that each age should build up for itself a philosophy of the state, based upon its development up to the point then reached, upon the actual conditions then existing, and upon the ideals of the future then held.

An analysis of present political theory shows it to be made up of three fairly distinct, yet closely interrelated elements. These may be outlined as follows:

1. HISTORICAL POLITICAL THEORY

This deals with the past and consists of a body of literature including both the ideal speculations and the descriptive accounts of past political theorists.[8] In addition to the writings of publicists, historical political theory includes the principles upon which past political institutions were actually based, many of these principles, unrecognized in their own times, having been deduced as a result of modern historical knowledge of past politics. Historical political theory aims to explain the origin and development of the state, the conditions that led to its appearance, and the laws of its growth. In the uncritical past, when historical knowledge was slight and when historical proportion and perspective were absent, numerous attempts were made to account for the beginnings of political institutions and for the nature of political authority. While containing important elements of truth, each of these theories was incomplete and one-sided, often because it was developed to uphold some preconceived purpose, to support or to attack such authority as then was found. Under these circumstances the real facts concerning the origin and growth of the state were unknown or disregarded. Among these theories the most important were the divine theory, which considered the state as established and directed by the authority of God; the force theory, which considered the origin of the state to be the forced subjection of the weak to the strong; and the social contract theory, which viewed the state as the deliberate creation of individuals by means of a voluntary agreement.[9] Such theories of state evolution as were found depended upon the conditions prevailing at any given time, with little effort to relate them to past development or to the general principles of political growth. Indeed, the same theory might, by a slight shifting of emphasis, be made to explain widely different phases in state evolution. Thus the social contract theory, in the hands of Hobbes, Locke, and Rousseau, served in turn as the support of absolute monarchy, constitutional monarchy, and democracy. Similarly, the theory of feudalism, and the doctrines of church and state were adapted, as needed, to the political development of the Middle Ages.[10]

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[7] Ford, "The Cause of Political Corruption," in *Scribner's Magazine*. January 1911.

[8] Dunning, *Political Theories*.

Only recently have the expansion of historical knowledge, the rise of a critical historical attitude, and the acceptance of the theory of evolution made possible anything like a satisfactory or logical theory as to the origin and development of the state. Even yet our knowledge of the early period of political life is incomplete, and several points concerning its rise and growth are in dispute. In general, however, the modern historical or evolutionary theory views the state neither as divinely created nor as the deliberate work of man through either conquest or agreement. It sees the state like other social institutions, coming into existence unconsciously, at various times and in different ways, as the result of a process of natural evolution.[11] The life of men in association, their bonds of kinship and religion, the need for regulation in securing order and protection, coöperation for defense or aggression—these created organization and authority, the crude beginnings of the state. By gradual evolution, under changing conditions and by a process by no means uniform, political life became more definite and more universal. Men learned first to obey, then to govern themselves. Unconscious development gave way to conscious progress, and state growth, influenced by external conditions, by changes in other institutions, and by the efforts of individuals, formed part of the great world movement of nature and man.[12]

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[9] Willoughby, *The Nature of the State.* pp. 18–88.

[10] Carlyle, *History of Medieval Political Theory.*

[11] Dealey *The Development of the State*, chs. i. ii.

2. ANALYTICAL OR DESCRIPTIVE POLITICAL THEORY

This deals with the present, and consists of philosophical concepts and principles concerning the nature of the state, its essential attributes, and the meaning and justification of its authority. Questions concerning the nature of government, sovereignty, liberty, and law, the relation of state to state, and of state to individual, must be considered, and a satisfactory theory evolved to comprehend the modern state in all its forms and relations.

On essential points as to their nature and organization all advanced modern states are in substantial agreement. Modern theory views the state as the outward organized manifestation of a conscious spirit of political unity. Geographic causes, common interests, the feeling of nationality, and political expediency are among the causes that create this unity, or general will, as it may be called; and when it is outwardly realized in the creation of government, a state exists. All states consist of populations, inhabiting definite territories, organized by means of governments which express and administer law,—the sovereign will of the state. All are legal persons which adjust the mutual rights and obligations of their citizens and which determine their relations with other states. In a theoretical, or purely legal sense, all are internally supreme and externally independent and equal.[13] In actual operation, the supremacy of internal sovereignty is, of course, limited by the complex interests and motives that influence the creation and application of law, and that determine political policy and methods. In international relations, the theory of legal equality is nullified by actual differences in size, strength, and wealth; and the theory of independence is modified by treaty agreements, by anomalous political situations, such as neutralized states, protectorates, and spheres of influence, and by practical political dogmas such as the balance of power and the Monroe Doctrine.[14]

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[12] Willoughby, *The Nature of the State*, ch. vi.

[13] Crane, "The State in Constitutional and International Law," Johns Hopkins University Studies, series xxv, nos. 6, 7.

Certain questions in modern political theory, for example, the proper adjustment of authority and liberty within the state, and the relations of states with one another, are still in dispute and will probably never be decided satisfactorily to all, since by their very nature they demand compromises and must constantly be adapted to changing conditions. For several reasons satisfactory agreement concerning all points of analytical political theory is difficult. In the first place, it is obvious that descriptive political theory dealing with the nature of the state at any given time becomes shortly historical political theory, as time passes and conditions change. It is always difficult to abandon old theories and create new ones in accord with actual facts. Indeed, it is often difficult to realize that conditions have changed and to see clearly political institutions and methods as they are. Hence the theories of the past linger and die hard; legal fictions remain after the circumstances that created them have passed away. The theory of the power of the crown in England long outlived the actual supremacy of parliament and the establishment of the cabinet; in theory, the President of the United States is still chosen by the electoral college. The state is always changing and the theory that explains it contains naturally certain survivals of theories that are outgrown but not yet abandoned. A definite line of separation between historical political theory, dealing with the state in the past, and analytical political theory, dealing with the state in the present, cannot be drawn.

Besides, observers of political life are always in danger of depending too largely on written constitutions and laws, on the skeleton of political organization, thereby neglecting the actual working of political institutions, the administration of the laws, and the influences behind the obvious governmental machinery. Hence, again, political theory as to the nature of the state is likely to be composed largely of generalizations as to what the state appears to be, or is intended to be, or ought to be, rather than with what it really is. Many reformers have been surprised and disappointed to find that some pet scheme, which was expected to work in a certain way, actually operated in quite a different way when fitted with the general system of modern political life. What President Lowell calls the "physiology of politics,"[15] the actual operation of governmental institutions, needs careful consideration; and it is often difficult to discover and to comprehend.

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[14] Jellinek, *Das Recht des modernen Staates*, pp. 461–470.

Yet every state must have its political theory. Some general principles will guide the statesman and the citizen; every readjustment of governmental organization and every policy of governmental administration will be based on some general scheme, more or less definite, and more or less comprehensive. It is therefore a service of value to attempt any systematic statement of modern political theory, basing it upon the consensus of opinion among those best informed, and making every effort to fuse it into a harmonious unity that shall include every phase of state existence. On such a basis alone can constructive and far-sighted plans of reform be erected.

3. APPLIED POLITICAL THEORY

This deals with the immediate present and the future, and consists of principles and ideals concerning the proper purpose and functions of the state. It views the state, not from the standpoint of what it is, but of what it does. It observes the state in motion instead of at rest; it considers, not organization, but function.[16] It traces present conditions and tendencies and it points out the direction and methods of possible reform and progress. Such questions as the proper ends of the state, the functions that are essential to its existence and those that are optional, with their relative advantages, fall within its scope. Theories ranging all the way from anarchism to socialism show the wide divergence of opinion within this field.[17] Whether the state or the individual is the more important, to be first considered if the interests of both fail to harmonize; whether the functions of the state should be narrowed to the least possible interference with individual freedom, or whether the state should assume a paternal control over a wide sphere of activity, are problems that must be dealt with, if they cannot be solved.

Here again it is evident that the relation is very close between the theory of state function and the theories of state evolution and of state organization. Historical political theory furnishes examples of state activity in the past and teaches valuable lessons as to probabilities in the future. Analytical political theory, which deals with the organs, cannot be divorced from applied political theory, which deals with their functions. What the state is and what the state does are two aspects of the same question; neither can be explained without the other. Those who believed that the state was of divine origin naturally tended to emphasize its importance and the authority of its rulers at the expense of individual liberty. Those who believed that the state resulted from unjust aggression were equally desirous to limit its authority or even to revolutionize its organization. The prevailing theory of the origin and nature of the state must profoundly influence the prevailing theory of its purpose and proper functions.

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[15] Lowell, "The Physiology of Politics" in *American Political Science Review* vol. iv, no. 1.

[16] Laboulaye, *The Modern State*, ch. i.

[17] Garner, *Introduction to Political Science*, ch. ix.

Above all, it should be remembered that in this phase, even more than in the others, political theory is relative, changing to meet new needs and to satisfy new ideals. The century that glorifies the state may be followed by one that emphasizes the individual. Functions best performed today by private initiative may demand government regulation or operation tomorrow. The theory of modern states takes, in the main, a middle position.[18] It aims at such division of labor as shall secure the best interests of mankind and of the individual man. It realizes that the state is by no means an evil, and that many things are most satisfactorily dealt with by collective authority. At the same time it recognizes the value of individual initiative and competition, and leaves to each citizen a considerable sphere of free action. Without laying down general rules, it deals with problems as they arise, viewing them in the light of existing conditions and aiming to adjust with most satisfactory general results the interests of the individual and of society.

All questions concerning the proper end or purpose of the state[19] must center around the fundamental relations that underlie all political science—those of state to individual and of state to state, in other words, the internal and external phases of state existence and activity. There are, therefore, three units to be noted: the individual, the state, and the collection of states that comprise the world as a whole. The welfare of each of these units must be considered and their interests may not always be the same. The authority to determine the relative importance of these interests lies, not in the individual nor in the combination of states, but in each state separately. This authority is, of course, largely influenced by the demands of the individuals included in the state and by the pressure of international interests and relations.

[18] Leroy Beaulieu, *The Modern State*, ch. v.

[19] Bluntschli, *The Theory of the State*, bk. v.

In general, states have, up to the present time, subordinated the welfare of the world at large to that of their citizens and to the needs of their own existence. National rivalries have been stronger than international unity. Within the state there has been considerable difference of opinion as to the relative importance of the individual and of the state, sometimes resulting in a paternal despotism or a socialistic commune, when the welfare of the state has been emphasized; sometimes resulting in an unregulated individualism, when the individual man, rather than the social group, has been given first place. Obviously, in the majority of cases the welfare of individual, state, and civilization in general are closely interrelated. What promotes the interests of the average man will ordinarily be for the advantage of his state, and of the community of states. However, this is not always the case, and the relative weight given to these various interests determines largely the attitude and the policy of each state as to its proper sphere of action.

Before the state, in the proper political sense of the term, could be said to exist, the relation of individuals, one to another, and of all to the common authority, had to be determined. This, then, was the primary purpose of the state, and it still remains its chief function. The adjustment of sovereignty to liberty, the maintenance of order and security, the establishment of a government and of a sphere of individual freedom—these first demanded attention, and their chief object was to reconcile the conflicting interests of individuals, to make possible a peaceful and organized social existence, and to secure safety from external danger. Such a process was, indeed, one of the first steps out of barbarism, and it was in the beginning unconscious and undirected.

To accomplish this purpose, chief emphasis was laid on authority and obedience.[20] The sanction of custom and religion was added to physical force and to such public opinion as then existed. Primitive man had first to acquire discipline and subordination; the whole power of the state was exercised by the government and individual freedom was impossible, because unsafe. Hence, the theory naturally arose that considered the state to be an end in itself. No part of the life of the individual was free from its interference or authority; every detail of his conduct was minutely regulated and no conception of individual interests, as distinct from general interests, was possible. Such was the theory of the state that prevailed among the ancient Hebrews, Greeks, and Romans; and, to a greater or less degree, it has accompanied the rise of political life wherever found.[21]

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[20] Bagehot, *Physics and Politics*, pp. 25-30.

[21] Esmein, *Droit Constitutionnel*, p. 377.

This condition, however, if permanent, leads to stagnation. After its end has been accomplished, that is, after the disposition to obey law and to observe order has been established, it must be modified before further progress can take place. A certain sphere of free action must then be allowed to the individual. The state must mark out a field, narrow at first, but widening as political intelligence and interest grows, within which it guarantees the individual against interference at the hands, not only of other individuals, but also of the government. Within this field individuals or non-political associations of individuals are to be unmolested, though they may be aided, by the state.

The creation, then, of the respective spheres of authority and liberty, their adjustment from time to time as conditions change, the organization of government to create and administer the will of the state within the field of authority, the determination of the political privileges and the civil rights of its citizens—these form the primary ends of the state and must be accomplished in order that there may be a state, in order that men may live peaceful and orderly and safe lives in organized association.[22]

When this primary purpose of the state is in a fair way toward realization, a secondary end becomes important. During the process of establishing government and liberty, of maintaining order and justice, the state becomes conscious of its own existence. It realizes its own unity and sets to work to perpetuate and strengthen its own life. This necessitates certain activities both within the state and without. The state must perfect its internal unity and must safeguard its external independence. To this end efforts will be made to secure definite and natural territorial frontiers, to surround the state on all sides with natural barriers—mountains or the sea—and to strengthen its exposed sides by fortifications and garrisons, or by treaty agreements with its neighbors. Efforts will also be made to perfect the ethnic homogeneity of its people. Regulations will be set up against promiscuous immigration and efforts will be made to secure uniformity of race, language and religion, to develop a feeling of national solidarity. Other states will be watched with a jealous eye lest they grow too wealthy or too powerful. Tariff barriers will be established and Balance of Power theories arise.

The secondary aim of the state becomes, therefore, by this process, the perfection of its own national life.[23] Instead of acting only as an arbiter to maintain peace and security, the state takes an active part in promoting the common welfare. No rights of the individual are allowed to stand in the way of this purpose. The needs of the state may demand the sacrifice of the citizen. If the existence of the state is threatened, the lives of all its members are at its disposal and may be freely spent in war. The state, through taxation, may deprive the individual of his property, to be used as it may see fit. Whatever cannot be done efficiently or economically by private individuals or associations, or whatever affects the public welfare, may be regulated or managed by the state. Tariffs or subsidies may build up one interest or section and destroy another. Evidently the purpose aimed at in this process is the establishment of a number of well-organized, powerful states, each determining the relation of sovereignty to liberty in its own organization from the standpoint of both individual and state needs, and each determining its relation to other states from the standpoint chiefly of its own safety and aggrandizement.

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[22] Burgess, *Political Science and Constitutional Law*, vol. i, pp. 86–87.

[23] Hill, *World Organization and the Modern State*, pp. 56–76.

However, this process leads to a third, and what may be considered the final, purpose of the state—a process just beginning. The relations arising among states, at first largely hostile in nature, lead in time to mutual understandings and interests. An international public opinion develops, commercial relations and means of communication and intercourse bind the whole civilized world into a unity. Intermarriage and migration break down ethnic differences. Improved means of transportation diminish the influence of natural barriers, religious toleration arises and imitation creates a civilization fairly uniform over a large part of the earth. Under these conditions the interests of the world as a whole loom large and receive consideration, even when they conflict with the interests of its component political units. Altruism, in addition to egoism, becomes a national as well as an individual virtue.[24] This attitude is as yet only imperfectly realized, but many indications point to its further extension. International understanding and sympathy, international agreements, conferences, and organizations, and the expansion of international law and adjudication illustrate this tendency. The formation of colonial empires, composed of divergent and scattered parts, is breaking down the geographic and ethnic unity upon which the modern national states are based. The efforts of states to educate and civilize inferior peoples and to aid worthy projects, wherever found, show a feeling of responsibility and duty regardless of political boundaries; and some things, for example, science, literature and art, are little affected by the separation of mankind into separate governmental units.

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[24] McKechnie, *The State and the Individual*, ch. xi.

The final aim of the state would thus be the furthering of the civilization and progress of the world.[25] In this process, it might, of course, sacrifice its own existence; it would certainly lose much of its external independence. Just as the perfection of national life demands the subordination of the individual, so the perfection of international life demands the subordination of the state. Modern states have not yet reached the point where they are willing to sacrifice their national independence and identity, and considerable difference of opinion exists as to the relative advantages and disadvantages that would result if it were accomplished. Just as the relation of state to individual gave rise to numerous difficulties, now fairly well adjusted, yet by no means finally or unanimously settled; so the relation of state to state creates problems whose solution is far from being in sight. The relative value of individual, state, and civilization in general, and the proper adjustments of each to secure the best net results—these are the questions upon whose answer depends the proper statement as to the end and purpose of the state. The end to which a state, at any given time, should chiefly direct its efforts depends, of course, upon the point that has been reached in its development. No state is in a position to extend its national influence and authority until it has set its own house in order and arranged satisfactorily its own organization and its relation to its component individuals. Neither can a state further the progress of civilization beyond its own boundaries until it has developed its peculiar national genius. These aims show a historical order as well as a development of philosophical conception; and the existence, side by side, of states with various points of view as to their main purpose, due to the stage of their political development, further complicates the already great difficulties in the way of a general consensus of political purpose.[26]

Moreover, these ends are closely interrelated and very delicately balanced. Each succeeding end is based upon the one that preceded it, which, when accomplished, becomes the means by which the following end is secured. That is, the establishment of authority and liberty serves as the basis for the development of political unity and solidarity, and this in turn lays the foundation for the progress of civilization in general. At the same time, each succeeding purpose lays a strain on the preceding stage which weakens or threatens to destroy it. No state can turn its attention to foreign affairs and play an important part in world politics without withdrawing attention from internal affairs, with resultant dangers of political corruption or unsolved domestic problems. No state can shoulder the burden of elevating an inferior people without placing this burden upon its own citizens.[27] No state can promote the cause of civilization without diminishing the intensity of its own patriotism and national spirit. Hence, consideration must be given, not only to the proper means of attaining each of these ends, considered separately but also to the proper shifting of emphasis from one to the other, each of which is valuable and necessary, and to the modifications that must be made in each so that the others may, at the right time, be brought into evidence. The purpose of the modern state, accordingly, includes a more or less composite aim at securing order and justice for its citizens, providing for its own continued and developing existence, and promoting the progress of the world at large. The proper adjustment among these and the proper means of securing each of them opens up many important questions.

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[25] Garner, *Introduction to Political Science*, pp. 316–318.

[26] Pollock, *History of the Science of Politics*, ch. iv.

The modern theory of the state, then, consists of a historical survey of its origin and growth, of a critical and legal analysis of its nature, elements, organization, and relations, and of a philosophical and ethical conception of its ends and functions.[28] For this study material is drawn from historical data, from past political theory, and from present political conditions and ideals. Modern theory is further influenced by the prevailing mode of thought and the accepted ethical standards. While dealing with the concrete manifestations of various and diverse forms of political organization, the principles that underlie the state in the abstract, the universal phenomena of political life, are being discovered, analyzed, and classified. From all this material may be built up a theory of the state, viewing it as an organized whole, as the natural outgrowth of conditions in nature and among men, and as performing many and valuable services for the individual and for humanity.

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[27] Reinsch, *World Politics*, pp. 347–356.

[28] Dunning, "Current Political Theory," in *Political Science Quarterly.* Dec. 1907.

A DEFINITION OF SOVEREIGNTY

BY ROBERT LANSING

Washington, D. C.

The consideration of a subject like "Sovereignty" leads a man, who has had little cause to study such questions in the abstract, into an unwonted field of thought, where he finds himself involved in a maze of theories, which, in their application at least, are confusing on account of the different premises and concepts upon which they rest.

I realize that it is more or less presumptuous for a layman in political science to enter this field of philosophy with the purpose of contributing anything to the general knowledge of a subject, into which many of those here present have gone much further and much deeper than I have been or can ever expect to go in the formulation and application of a correct definition. Having, however, in a moment of unwisdom set my hand to the plow I will not look back, nor will I offer apology for what I have to say on the ground that it will be the utterance of inexperience, warranted as I would be in making such a plea.

The thing, which has especially impressed me in my examination of the writings of publicists on the nature and sphere of sovereignty, is the artificial character of the theories, which have been advanced, and of the methods of treatment, which have been generally employed. This seems to be true whether the writer is dealing with sovereignty alone or as a part of a theory covering law, jurisprudence, or political institutions. Frequently too a theory is founded on a legal fiction, which will not stand the test of fact.

Apparently the process of thought adopted in many cases by the advocate of a theory is to formulate the theory first and then to seek out historical facts to support his preconceived ideas, unduly omitting facts in opposition or moulding them to meet his views.

To one, whose experience has been in the practical rather than the theoretical field of law, such a method of theorizing appears to be highly unscientific and prejudicial to the truth. Heaven knows that the science of law, in theory and in practice, is already sufficiently burdened with a reputation for relying upon fictions, so that those, who teach and practice it, ought to be specially careful to avoid artificial premises in the construction of theories.

We live in a utilitarian age, when the actual and practical dominate human thought. Men today want a theory which works, which stands the test when applied to facts, which is not perforated with exceptions. Theories of that sort win the approbation of mankind, while the old type of theory, however adroitly reasoned, is viewed with suspicion. It seems to me that we ought to eliminate fine-spun logic and attenuated argument, those shreds of mediaeval philosophy which still persist and tincture modern thought with assumption and unreality. We should see in the popular reception of Pragmatism the spirit of the times and deal with things as they are rather than with things as they might be.

Following the normal course of thought then (and I mean by "normal," unrestricted by limitations imposed by a particular type of theory), we may begin the present discussion with the proposition that a political energy or a political institution finds its origin in such causes as the association of man with man, the intellectual development of an age or race, the environment of a particular community. So too the concept of a political energy or a political institution should be based primarily upon attributes founded in nature rather than upon those founded in theory, attributes, which can be applied universally to social conditions regardless of the state of social development or the recognition of law as a political force.

No doubt it will be charged that the foregoing method of treatment results in confusing sociological and legal theories and that their spheres should be kept distinct. From the view point of the specialist this may be true, but it can in no way affect the value of a theory to the practical thinker, who in his search for the truth follows the facts into whatever path they may lead him.

To illustrate in connection with our present subject: It seems to me of very little value to assert as a condition precedent that Sovereignty shall be considered as a concept of law (I do not here differentiate between constitutional and international law), that it is a legal creature functioning through law and is at the same time a source of law. I presume that it is too great regard for practicality, which prevents an appreciation of the logic of this proposition; if so, I plead guilty. It reminds me very forcibly of the old riddle, "What would be the result if a snake began to swallow his own tail and kept on swallowing?" How a thing can produce and at the same time be the offspring of another thing is a problem, which I think would have vexed the Schoolmen of eight centuries ago, those philosophic gymnasts who delighted in propounding and discussing unanswerable questions.

Enough has been said to indicate that, in a consideration of sovereignty, no good purpose is served, in my opinion, by declaring that it is a subject which belongs to a particular branch of political science. To do so seems to me to place an arbitrary limitation upon its sphere of operation, a limitation, which, until it has been established by facts, is entirely hypothetical. I do not say that such a limitation does not exist. It may exist. But, if it does exist, let it be proven rather than assumed as a basic hypothesis, to which the facts must be made to conform.

It seems to me that the practical mode of considering a subject like the present one is to determine its nature from political phenomena, to seek for it natural rather than artificial qualities, to widen or contract its sphere of exercise so that it may apply generally as to time and place—in a word, to give to sovereignty a meaning, which accounts for certain manifestations in a politically organized community which would otherwise appear to deny the normal rule of cause and effect.

In pursuing this method it is evident that simplicity of form in communities and political institutions is preferable because of the facility of analysis; and it is also evident that this simplicity will be found in the barbarous state of human society. Necessarily this leads us into the domain of sociology.

A primitive community originates in the gregarious impulse inherent in human nature rather than from any process of reasoning by the individuals, who compose it. It is the physical, not the intellectual, in savages, which causes them to associate. Animal passions, fear, and the chances of birth and situation are among the primary causes. Later, as a community increases in numbers and civilization, there is evidenced an energy, which with more or less tenacity keeps the members of the community united. This energy, which is in fact manifest from almost the moment of origin, is the controlling factor in a community giving to it continuance and a rudimentary political organization.

Like all that pertains to human society in a barbarous state this energy is physical; it is only in the higher stages of development that man permits his conduct to be affected by rational, moral and religious influences. This physical energy of the savage is necessarily strength of body. No other human force is known to the physical man. As in the case of gregarious animals a savage man, because of superior muscular development and vigor, compels his fellows in a community to submit to his will either by the employment of force or from fear of physical punishment. He commands and is obeyed because he can compel obedience.

This fundamental energy, which is the binding force in the most primitive forms of society and continues its functions, though modified by intellectual influences, in the higher types of communities, seems to me to be entitled to the term "sovereignty." We think of sovereignty—and I mean by "we" mankind in general—as the supreme and vital element in a political state, without which it cannot exist in an organized form or possess those other attributes, which enter into the concept of a state.

I do not ignore the fact that there has been a marked change in the idea of sovereignty held by publicists who have written since Bodin advanced his theory in the sixteenth century, a change due, I believe, largely to the influence of legalism and its increasing popularity during the eighteenth and nineteenth centuries. Change, however, is not necessarily progress. Indeed, not infrequently the earlier thinkers seem to me to have come nearer the truth being unhampered by conventions and uninfluenced by the opinions of others. To discuss the merits of the different concepts of sovereignty which have been advanced in the last three hundred years would lead us unavoidably into a consideration of the political and legal theories of their authors, a field of investigation far too extensive to enter at the present time.

It will have to suffice for the purpose of this discussion to pursue an independent line of thought without reference to a particular theory and without criticism of the works of publicists, however authoritative such works have become.

Following, therefore, the proposed method of analysis by confining the present consideration to small communities with simple institutions and applying the suggested concept of sovereignty to the phenomena of life in such communities, it is apparent that the individual, who has the bodily strength to impose his will upon all the other members of the community, possesses the supreme political authority. View it from what point you will, give to the intellect, the emotions, the conscience, their highest place in influencing human conduct, and you must come back to the naked fact, confirmed by history as well as by reason, that political mastery depends upon the physical power to coerce.

I cannot attempt here to trace the phenomena of political existence from those of the primitive tribal community up through those of the more complex types, which have developed patriarchal, patriarchal-tribal, monarchic, democratic, and representative systems of government, and show how in each type physical might continues to be the fundamental energy in spite of the restrictions which art has attempted to place upon it.[1]

This I know can be done, but I must ask you now to assume it as a fact, and pass to the consideration of a question, which has reasonably been asked by those who are opposed to the idea that the essence of sovereignty is physical power.

The question is this: Should not the term "sovereignty" be applied to the supreme *will* in a political state rather than to the supreme *power?*

This is manifestly a fair question, and one, which disciples of that school of philosophy, which considers law to be as all-pervading in human society as electricity is in nature, will answer affirmatively. Sovereignty from their point of view could hardly be considered anything other than the supreme will in a state. Supreme will, when declared, becomes law; and law thus becomes dominant in the state being the only channel through which sovereignty can find expression.

While appreciating the force of this concept of sovereignty, and understanding, I believe, the influence of the word "law" upon those who advocate it, the weakness of the definition of sovereignty as "will" lies, in my opinion, in the artificial type of supremacy which it is necessary to assume if it is adopted. What is it, which makes a particular will supreme in a state, whether it be considered the will of a person, a body of persons, or the state as a juristic person? Can it be anything in fact other than the power of the one, who wills, to compel obedience? I know that it may be asserted that supremacy of will depends upon legal right, but who can proclaim a legal right except the supreme will? You see we get back to the old question of the snake swallowing his own tail the moment we introduce law as a source of real superiority. But, if law is not the source, there appears none other in human society save physical might.

This conception of the supremacy of brute force in a state may appear to be a barbarous doctrine distinctly out of harmony with the modern spirit, which exalts law above every force in society and considers all political phenomena to be produced by it or subject to it. "The reign of law" is an agreeable phrase to the present generation and the idea, which it conveys, is given a preëminent place in modern thought. On the other hand, the suggestion that physical strength dominates law and right in the political life of the world is displeasing, if not abhorrent, to the moralist as well as the legalist of the present day. But, however strong may be the prejudice in favor of law as a positive force, it appears to me impossible to avoid the conclusion that the legal right to exercise the supreme will over a community fails to confer upon its legal possessor a real supremacy, unless the possessor of the physical power permits such exercise. When that permission is granted, either positively or passively, is not the will of the possessor of the physical power actually supreme, whatever may be the legal fiction as to the right to exercise the supreme will?

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[1] An application of this concept of sovereignty to various forms of government and the development of the theory of a real and an artificial (legally created) sovereignty in a state will be found in the writer's "Notes on Sovereignty in a State," which were published in the *American Journal of International Law* (1907), vol. i, pp. 105–128, 297–320.

It is axiomatic that will must be exercised in every act of sovereignty, however it is defined, but will cannot be exercised without the consent of the one possessing the physical power to choose between obedience and disobedience to such will. Consent itself is an act of will. The consent of the physical master is an act of the will, but the will of the master. Whatever may be the legal *status* of the one who wills, the supremacy in fact rests with the one who is the stronger physically. That a man or a body of men in a community can possess the supreme might and not possess the supreme will appears to me to be paradoxical.

Thus, whether the supreme political authority is considered to be a manifestation of will or a manifestation of strength, the proposition stands that such authority belongs to the possessor of the superior physical might. To me the word "sovereignty" conveys an idea of completeness, of sufficiency, of unrestricted domination, of an authority from which there can be no appeal, so that I cannot dissociate supremacy of will from the power to compel obedience.

I have no doubt that some of those present think that I have failed to give proper value to the concept of a political state as a juristic person and that what is meant in legal theory by supreme will is the supreme will of the state, and not the will of an individual or a body of individuals within the state. I realize that, from the point of view of the legalist, who would subject all political phenomena, even the state itself, to legal formulæ, this idea is in harmony with the general theory which he advocates.

With neither the idea nor the theory am I in accord. To hold the view that a state is a creation of law rather than a product evolved from a primitive community through a process of political unification by means of human might appears to me to deny the results of actual experience and to adopt a fiction. The value of this assumption to legal theory is clear; in fact, if the theory of the paramount authority of law in human affairs is accepted, the idea seems indispensable; but applied to the proposition that a community as a political organism is the resultant of an evolution through natural causes it finds no place until by the exercise of sovereignty a legal system has come into operation and law has impressed new and more or less artificial relations upon the members of the community.

An organized political society, the result of natural development from the primitive community, may, even before legality becomes manifest, be said to possess supreme power and supreme will, because somewhere among its members there is an individual or a body of individuals who has the physical power to impose his will or their collective will upon all the persons and over all the territory of the community. Whether the individual or the body of individuals acts directly or through an agent his announced will becomes the law of the community. If the possessor of the supreme power chooses to give the state a specific legal character and to declare it to have certain legal attributes, such character and attributes exist so far as the members of the state are concerned; but clearly their existence is legal rather than actual, a product of the human mind rather than of nature.

Eliminating the idea of corporate possession, because it appears to be a legal proposition and not a fact, it is evident that the *locus* of the sovereignty in a state can only be truly determined by the exercise of physical power between opposing individuals or factions, that is, by matching strength against strength. Such a contest in a small community of savages might be a single combat, but in large communities it would be a civil war or else, if by threat of violence, a bloodless revolution. Thus the possession of the sovereignty in England was manifested when the lords and barons compelled King John to sign Magna Charta, when the people during the Puritan revolution wrested the government from the nobility, and when they again asserted their supreme political authority in the revolution of 1688. So in France the overthrow of the monarchy in 1792 and the destruction of the legal prerogatives of the aristocracy and clergy demonstrated that the French people possessed the physical strength to compel obedience to their will.

The Civil War in the United States is another historical event, in which the *locus* of the sovereignty was conclusively shown through an exercise of force. The method of determining in whom the sovereignty of the Federal State legally rested was provided in the organic law by furnishing a means of amending it. This method was ignored and those possessing the superior physical power established their supreme political authority by force. The legal right of a State to secede from the Union was tested, not by the constitutional process but by a resort to brute strength. The right of secession was denied by the possessors of the superior might and they manifested their collective will by compelling submission on the part of those who asserted the right. The denial of the right was never incorporated into the organic law by the process of legislation, but it was none the less established by an exercise of sovereignty that secession was illegal. And this act demonstrated the actual rather than the legal *locus* of the sovereignty in the United States.

From the point of view of those, who maintain that sovereignty is the supreme will of the state as a juristic person and that it is not the collective physical power of a defined or undefined body of individuals within the state sufficiently strong to compel obedience, the operation of the sovereignty, when a civil war is in progress, seems to be difficult of explanation. I assume that as plausible a theory as any is that the sovereignty of the state is, in its legislative operation, suspended until such time as domestic peace and order are restored and enacted law resumes its function in the regulation of human conduct in the state. This theory, however, does not remove entirely the difficulties of the situation. It appears to deny the supremacy of the legally sovereign will during the continuance of the war, for the act of suspension, if compulsory, disproves its supremacy. Remembering that the theory is that sovereignty is only manifested through law, one may pertinently ask: What laws continue to be in force during the period of domestic strife? What legislative authority exists? Does not the right to legislate depend upon the power to enforce? Is the mental power to will or the physical power to coerce the controlling factor in determining what is law in fact?

Viewing the situation from the natural in contradistinction to the legal standpoint, the physical strength of a faction, a party or a body of individuals in a state must be superior, and in asserting itself in actual conflict with those, who deny such superiority, it furnishes conclusive evidence of its physical superiority, and by its exercise compels the acknowledgment that the collective will of its possessors is supreme.

My proposition, however primitive in origin it may seem, is this: That civil war, whether it is termed an insurrection, a rebellion or a revolution, is the practical process, by which the possession of the sovereignty in a state is determined as a fact, and that through no operation of law in time of peace can such possession be actually determined.

It may be assumed as a legal principle that sovereignty is possessed by all the individuals in a state considered as a corporate body, but domestic strife with the resulting entire or partial suspension of the operation of enacted law disproves the truth of the assumption. It is a fiction, which becomes evident the instant one party in a state denies by physical resistance that another party, which has been in control of the machinery of government, can compel obedience to enacted law. In one or the other party the actual sovereignty will be shown to reside by the outcome of the conflict.

When, however, domestic tranquillity prevails in a state and the physical energies of its members are turned into peaceful channels, the actual possession of the sovereignty cannot be subjected to the ultimate test. The physical might of one party cannot be measured with the physical might of another party without destroying that desirable condition of a state at peace, which is conducive to its industrial expansion and the acquisition of knowledge and wealth by its people. In these circumstances an artificial method of determining the *locus* of the sovereignty becomes imperative, as there must be some means of selecting agents to announce and put into force rules of conduct, if political organization, public safety and private rights are to be preserved.

In the political systems of modern civilized states the method adopted, with but few exceptions, is to recognize the authority of majorities. It is generally accepted that "majority rule" is founded on the precept, that men are politically equal, but a critical consideration of the idea in the light of facts will, I think, convince you that it is based upon the assumption that each individual, who is by law granted political rights, is the physical equal of every other individual possessing similar rights. Sequent to this assumption is the further assumption that the majority of the individuals so empowered are possessed of the superior physical might in the state, that is, of the sovereignty.

Until recent years the limitation of the suffrage to males, who had attained manhood and presumably full muscular vigor, carried out in a marked degree the idea that physical qualifications were essential to a participation in the declaration of the will of those possessing the sovereignty in a state. The introduction of female suffrage into certain political systems (which there is not time to consider here) rests upon entirely different principles, which are fundamentally moral; nevertheless its introduction gives further evidence of the tendency in modern thought to supplant the more natural standards with those which are artificial.

History proves to us that the form of government in a state is usually determined by force, though in some instances by legal processes. In the former case a minority of the individuals in a state may and frequently does decide the form of government. In the latter case the majority of individuals being presumed to possess the power to compel obedience, their expressed will controls. Thus the organic law of a state springs from a natural source or from an artificial source, as the physical power is manifested in fact or is assumed to be possessed.

In a state, where the form of government is representative republican, the legal presumption, that the sovereignty is possessed by a majority of an electorate, which is limited in numbers by legally defined qualifications, is further shown by the choice of representatives and the delegation to them of powers to perform the necessary functions of government. That these chosen representatives are the agents of the actual possessors of the sovereignty is manifestly presumptive. It may or may not be true in fact. The law in times of domestic peace declares it to be true, but a successful rebellion may prove conclusively the falsity of the presumption by depriving the legally chosen representatives of the governmental authority delegated to them, while, on the other hand, an unsuccessful rebellion may convert the presumption into an established fact.

In the case of successful resistance to an existing government the practical result is that the law of its creation is repealed by force; the real possession of the sovereignty takes the place of the artificial possession; actuality supplants legality; fact destroys fiction.

But, whether it is a time of internal strife, when the actual possession of the sovereignty is manifest, or a time of internal peace, when the majority of an electorate are presumed to possess the sovereignty, the fact remains that a large number of the members of a state cannot exercise their individual wills since they are opposed to the collective will of the possessors of the sovereignty. Those who are in opposition must either obey, because of the superior strength of the dominant body or because of their voluntary submission to enacted law, or else they must put the question of the possession of the sovereignty to the test by forcibly resisting the declared will of those who claim to have the superior power.

If the foregoing reasoning is correct—and I wish to say again that it seems to be a brutal doctrine hostile to the popular idea of the supremacy of law in the civilized world—the following propositions are true; that all the individuals composing a state do not share in the possession of the sovereignty; that it is located *actually* in the body of individuals determined or undetermined, who possess the physical might to compel obedience to their collective will; and that it is located *legally* in a majority of a limited electorate in a republic, or, in other types of states, in a special group of individuals designated by law.

As to the theory that a state as a juristic person possesses the sovereignty, it has to be assumed that it functions through majorities, but it must be understood that majorities are, when introduced into a political system, creations of law, and that they are not inherent in human society. To ignore a minority, which may be stronger physically than a majority and thereby able to put into operation its will in spite of the announced will of the majority, is to place legal supremacy over actual supremacy, to clothe the impotent with a fictitious power. It is the exaltation of law over physical might by crediting law with a superiority which it does not and cannot possess in fact.

It comes to this then, that a state, when viewed from within, certainly does not as an entirety possess the sovereignty, though it is possessed by certain individuals who are within the state.

Viewed from outside the state, however, a state, as I have said, may be considered to possess the sovereignty since its possession is within the limits of the state. It seems to me, therefore, that in a consideration of the relations between states it is not improper to speak of a state "possessing sovereignty" or to use the expression "a sovereign state."

The relations between states form the province of international law, and it is customary to speak of a state in its character as a subject of international law as "sovereign and independent." Independence is a condition essential to a state's legal equality with other states in the family of nations.

But what is this condition of independence other than a condition in which there exists among the members of a state a body of individuals who have the power to make their collective will supreme within the state? Independence is clearly but an external manifestation of sovereignty; that is, the possession of sovereignty within a state confers upon it internationally a legal condition of independence.

I know that it has been denied that sovereignty is a proper term in international law, and that it is asserted that it belongs exclusively to constitutional law, and that the fundamental attribute of statehood from the external point of view is independence alone. I would like to discuss here the question as to whether independence is a condition in fact or one created by legal presumption, but there is not time to do so. I can only say that I do not at all agree with those who refuse to consider sovereignty a term of international law.

In the first place, since the condition of independence is a manifestation of the possession of sovereignty within a state, and, conversely, dependence is a condition which shows that sovereignty is not possessed within a so-called state, I can see no good reason for avoiding a normal process of thought by attempting to separate two ideas which are manifestly interdependent. In fact I do not see how this can be done logically without assuming that sovereignty is a creature of law and that law is limited to the definition of John Austin that it is a command by a political superior to a political inferior.

In the second place international law deals with questions which arise when the sphere of one sovereignty conflicts with the sphere of another sovereignty, that is, when the possessors of the two sovereignties claim the same field over which their wills are supreme. The natural result of such conflicting claims is war to determine which sovereignty is actual over the subject in dispute, though modern enlightened sentiment, in order to avoid the loss and suffering incident to war, seeks to settle the respective claims by judicial process. In either case, however, the question to be determined is which sovereignty is dominant over the subject of controversy.

In the third place, when there is a dispute within a state as to whether the existing government does or does not represent the real possessors of the sovereignty and the *locus* of the sovereignty is subjected to the test of civil war, it becomes necessary for a foreign government to consider in what body of individuals within the state, where the war is being waged, the sovereignty is located. Having decided this question in accordance with its judgment, it recognizes as the true agent of the possessors of the sovereignty the government established by the one or the other of the warring factions. After such recognition, if a reasonable doubt remains as to the *locus* of the sovereignty, a government may recognize the other party to the conflict as a belligerent. This recognition of belligerency permits the foreign government to regulate its conduct to the combatants by different rules from those applicable when belligerency is not recognized.

If, however, neither of the contending parties exhibit marked superiority in the conflict, so that the issue of the war is most uncertain, a foreign government may be justified in recognizing neither party as the possessor of the sovereignty, but wait to do so until one of them has established its claim by force of arms.

The decision in either of the foregoing cases as to the recognition of the governmental agents of one party or the other should depend upon the fact as to whether or not the party has established and can presumably maintain a stable government, possessing the power to perform its international obligations. Stability of government rests entirely upon the physical might to compel obedience and not upon a legal right to command, unless it is considered that "might makes right" in political affairs, a trite saying, which should not be too hastily rejected. Clearly the question is one of fact and not one of law. Who are the possessors of the sovereignty? What government represents the possessors? These are the questions which are presented to a foreign government, and upon the way in which they are answered depend the relations between the governments.

I consider it fair to ask those who deny sovereignty a place in international law the following questions: Whether the *locus* of sovereignty in a state should not be considered when a condition of civil war exists? In what manner are the spheres of conflicting sovereignties to be determined without considering their exercise and the points of interference? How in fact can independence be proved or even assumed for a state unless there is recognition of the exercise of sovereignty within the state?

The real cause of the limitation put upon the use of the term "sovereignty" seems to be, as I have already suggested, in adhering to the Austinian definition of law and in considering legal right preëminent in man's political relations. International law from the Austinian theory is not law in fact but merely a moral code. Now, if we concede that sovereignty is a creature of law and only operates through law, and law is properly defined by Austin, it is evident that sovereignty can find no place in international law. But with this idea of the sphere of international law and with the narrow definition of law I am not in sympathy since they are apparently based upon premises, which it seems to me reason denies.

It is, from my point of view, illogical to call a body of individuals "sovereign," who by law possess a right to announce and do announce their collective will in the form of public laws, when another body of individuals within the same state possess the physical power to disobey such laws without liability to punishment. As I have indicated already, the obedience of the stronger is a voluntary act on their part, not an act of those possessing the legal right to will. Manifestly the real energy is not the law, but the power to enforce it.

Whence comes the legal right to exercise sovereignty? Who utters the creative law? Would those who follow in Austin's footsteps, deny that the right comes from law, and that the law comes from the political superior, and that political superiority comes from possession of the legal right to exercise sovereignty? So we go round the circle and return to our starting point like one lost in a forest.

Let us seek another way out of the difficulty. Assume, if you cannot agree, that sovereignty is the supreme physical power in a state. Law, upon that assumption, is the announced will of the possessors of the sovereignty. Sovereignty is the energizing force behind the law. It is in no sense a creature of law nor a concept of law, since it existed before law. The legal right to announce the will of those, who possess the sovereignty, may be retained by them or delegated to agents. But such legal right, like all other legal rights, is created, continued and destroyed at the will of the possessors of the sovereignty.

There is in this theory no mystery of creator and creature united in the same concept; no endless chain of cause and effect; no seeming contradiction; no paradox to be explained. It appears to me a practical working theory. It is dependent upon the definition of sovereignty and a due recognition of the part sovereignty as so defined plays in our political and legal systems.

Briefly to recapitulate: There is in a modern political state, as in a primitive community, an irresistible energy which can control all human conduct within the state. This irresistible energy is superior physical might which has no limitations other than those inherent in human nature. This superior physical might confers upon its possessor or possessors the power to compel obedience to his or their will. This dominant will is expressed by action or by command. The supreme coercive physical power I would define as *sovereignty;* the expression of the dominant will of its possessor or possessors I would define as *law.*

Sovereignty so defined is a natural product of human association affected by the desire for its continuance. Law, in any but an artificial sense, is the mental product of the possessor of the sovereignty. Thus effective rules of human conduct (and they are the only ones worthy of consideration), whether they apply to individuals or to states, depend ultimately upon paramount human energy or sovereignty, which, though founded in nature, seems to me, not only an appropriate, but an essential, term in international law as well as in constitutional law.

In this discussion I have not attempted to introduce a novel definition of sovereignty but rather to restate an old one and apply it to modern political conditions. I have endeavored to consider it from the practical standpoint regardless of any differentiation between political and legal theory. I have sought in a general way to test the reasonableness of the definition by applying it to political phenomena, with which we are all familiar, and by considering the relation between actuality and legal fiction.

As stated at the outset, I have been compelled to avoid a review of authorities. By following this course the consideration of the subject has been incomplete and, therefore, unsatisfactory. I realize this; and present this paper only by way of suggestion from one, who has found certain theories, which have been advanced by some of our philosophers, weakened or rendered imperfect by a concept of sovereignty, which is artificial and impracticable when applied to actual fact.

THE AMERICAN PHILOSOPHY OF GOVERNMENT AND ITS APPLICATION TO THE ANNEXED COUNTRIES

BY ALPHEUS HENRY SNOW

Washington, D. C.

From the time of the founding of the United States by the Declaration of Independence until the Civil War, the existence of slavery obscured our philosophy of government as set forth in that great document, and as implied in the Constitution and its original amendments. The Civil War abolished slavery and restored our original philosophy. The adoption of the fourteenth amendment, placing upon the United States the responsibility for securing the fundamental rights of the individual, even against state action, was the logical effect of the restored philosophy. The annexation of distant regions, as the result of the Spanish War, and the necessity of applying to them our philosophy and system in some appropriate and permanent manner, compelled us again to consider our fundamental ideas, and again to declare our fundamental principles.

As a result from these epochal events in our history, our philosophy has been defined and reduced to its essential elements. It may, as it seems, be summed up in two propositions. The first is, that there are certain fundamental rights of each individual against all other individuals under a supreme law which we recognize—rights which are so fundamental that they are universal and unalienable and therefore beyond the just power of any government or of all the people of the nation or of the world to abolish or diminish; and that therefore there are certain fundamental and unalienable rights of each individual against governments, which we believe can best be made effective by constitutional prohibitions forbidding certain kinds of governmental action found by experience to be destructive of or dangerous to these fundamental rights, contained in written constitutions and made the most fundamental part of the supreme law of the land. The second proposition is, that all organized communities, however great or small, and whether independent or not, are corporations having for their object the securing of these fundamental rights; and that hence, like other corporations, they are democratic, representative and federal in form and have written constitutions.

The conception of fundamental and unalienable rights of the individual under a supreme law which is recognized by all persons and all governments is not new. Every one must recognize that there is a great difference in importance between the various rights which an individual enjoys in the society of others. Some are so important that all would agree that they are essential to life and to the existence of orderly society. At the other pole are rights which are trivial and unimportant. This difference has always been perceived. The Ten Commandments were fundamental law for the people of Israel; being regarded by them as a "covenant" made by God with man, the performance of which by man was essential to individual liberty and peaceful society. The people of Israel considered that they had fundamental rights and duties under the Ten Commandments, which no government could justly take away. All governmental action, so long as the Ten Commandments remained the fundamental law, was regarded as "judgment," since all questions of government had to be tested by the Commandments; and rulers were properly called "judges." So also the two "Great Commandments of the Law" laid down by Jesus as even more fundamental than the Ten Commandments of Moses, are principles of fundamental and universal law, under which Christians consider that each person has fundamental rights which are essential to individual liberty and to peaceful society, and which no government can take away.

In modern times we state the fundamental rights of the individual affirmatively, according to the Christian method, and hold that there is a supreme fundamental and universal law under which each individual has the fundamental and unalienable right, as against all other individuals, to do anything which may enable him, in harmonious relationship and coöperation with all others, to utilize the physical and psychical resources of the universe for his highest development as a natural and spiritual being, to the extent that this is possible having due regard to the equal rights of all others to utilize these same resources for these same purposes. The purpose of government is to secure the individual in the enjoyment of these rights. This power and duty of government to secure fundamental rights implies that it is the power and duty of government to extend the self-developing powers of the individual over the forces of nature by providing and maintaining the means and processes necessary for common use in the general self-developing activities, and that it is also the power and duty of government to release the self-developing powers of the individual from improper obstruction by restraining and punishing individuals who infringe these rights of other individuals.

The philosophic basis of this supreme fundamental and universal law under which exist certain fundamental rights of the individual which are universal and unalienable, is stated in the Declaration of Independence to be the proposition, held as a self-evident truth, that all men are created equal. From this proposition the Declaration asserts that it follows as a self-evident truth that all men are endowed by their Creator with certain unalienable rights, among which are the rights of life, liberty and the pursuit of happiness. This is of course the religious explanation; for both these propositions imply belief in a personal God and Creator before whom all men are equal. It is God, the Creator, according to this explanation, who has established the supreme universal law which all men can and must recognize under penalty of reversion to barbarism. Under this law all men, according to the Declaration, have certain fundamental rights, called the rights of life, liberty and the pursuit of happiness. These rights are common to all men—that is, universal—and also unalienable—that is, such that no one can part with them by his own act, even to a government; and such that they can not be taken from any one, even by a government, but can only be forfeited to society for anti-human and anti-social acts done, and through appropriate action of government regulating the forfeiture. These rights are said to arise by endowment of the Creator; the evident meaning being that they are rights corresponding to the attributes with which all men are equally endowed under a supreme and divine law. These attributes are of course life, motion and the ability to use things and natural forces for the support of life, for locomotion, and for the pursuit of happiness. From the right to the pursuit of happiness is evidently derived the right to the exclusive possession of things and natural forces which we call the right of property; but in the view of the Declaration, the right of property is limited by the common right of all to the pursuit of happiness. This religious basis for these universal and unalienable rights is doubtless the true basis. Lincoln so believed, as his Gettysburg address shows; for in that he declared that the whole American philosophy and system is based on the proposition that all men are created equal. It must, however, be recognized that this religious explanation is likely to be accepted only among that part of mankind which believes in God according to the revelation of Him made in the Christian Bible.

Another basis for these fundamental rights is that which we obtain by means of philosophy—that is, by the application of reason to facts of experience. In this view these fundamental and unalienable rights are created by natural law, or the law of nature, and are called natural rights, because they are such rights as correspond to the common and universal human attributes of life, motion, and the ability to use things and natural forces for the support of life, for locomotion and for the pursuit of happiness—the right of exclusive use by each person of some part of the whole mass of things and some part of the natural forces, which we call the right of property, being to some extent natural and to some extent artificial. The existence of these natural rights is rationally and practically justified on the ground that they are necessary to individual liberty and peaceful organized society.

Still another basis for these fundamental and unalienable rights is that which we gain from the science of practical politics and jurisprudence. According to these sciences, all law emanates from an organized society and is the formulated expression of the conscience and will of the society, which the society enforces upon its members. Universal rights can, in this view, arise only from a law which is made by the organized society composed of all the peoples and organized communities of the world, and which is supreme even over the so-called independent nations for common and general purposes, so that its formulations of universal principles bind all nations and peoples. To this great organized society we apply the name of "the society of nations." In this view, the fundamental rights may be said to exist under the law of the society of nations, or under "the law of nations," as it is sometimes called. The law of nations, on this hypothesis, makes these rights unalienable by any individual on the ground that they must be so unalienable throughout the whole world in order that individual liberty and peaceful organized society may everywhere exist.

But whether we regard the notion that there is a supreme universal law creating certain fundamental and unalienable rights of the individual, as a religious proposition derived from our faith in a personal God and Creator of all men, or as a philosophical proposition derived from reason and experience, or as a legal proposition derived from the conception of the peoples and nations of the world as a single organized society and the formulator and legislator of a supreme universal law which binds all nations to the observance of these rights as unalienable, the result is the same, and the fundamental and unalienable rights are a fact.

As there are therefore undoubtedly fundamental and unalienable rights of the individual against all other individuals under a supreme universal law, it follows that the object of government must be the securing of these fundamental and unalienable rights, and that therefore the individual has certain fundamental and unalienable rights against the government to prevent and restrain it from destroying or diminishing these rights.

The doctrine that there are fundamental rights of the individual against the government was declared in the Declaration of Independence. The words following the statement of the doctrine that all men are created equal and therefore have certain unalienable rights, are: "To secure these [fundamental and unalienable] rights, governments are instituted among men, deriving their just powers from the consent of the governed." To "secure" these rights is to recognize and protect them. The statement negates the idea that the government creates these rights. It necessarily implies that these rights are created by a law supreme over governments and peoples, which governments and peoples recognize. The securing of these fundamental rights is thus declared to be the object for which all governments are instituted. All governments can do is to create artificial or remedial rights, for the purpose of securing fundamental rights. The protective action of governments in maintaining armies, navies, fortifications, courts and police, the dispositive action of governments in admitting states, in laying out administrative districts and in chartering towns, cities and private corporations, the sociative action of governments in maintaining good relations with foreign nations and with annexed countries, the constructive action of governments in building ways of communication, in providing public utilities, in entering in various ways into coöperative business operations with moneys collected by taxation, as well as the permissive and prohibitive action of governments in regulating the action of private persons, public officials, and corporations, all have for their object the creation of artificial or remedial rights whereby the fundamental and unalienable rights may be secured. In all the vast work of government there is thus involved an act of judgment concerning whether the act ordered to be done by public officials or the things ordered to be constructed at public expense, will be in aid and protection of the fundamental rights of the individuals affected, and whether the act prohibited or conditionally permitted to individuals is one which it is necessary to prohibit or conditionally permit, in order to secure fundamental rights.

The Declaration, in asserting merely that governments are instituted among men, implies that governments may in some cases rightfully be instituted for a people by internal force or by the external power of another people. In declaring, however, that all governments, in whatever manner they may be instituted, have for their object the securing of the fundamental and unalienable rights of the individual, and that they derive their "just" powers—that is, their power to secure these fundamental and unalienable rights—from the consent of the governed, it is necessarily implied all governments, however instituted, are the agents of the governed, and that whenever the governed have attained the capacity of consenting to the exercise of such just powers, they have the right to institute their own government. When the people governed institute their own government, however, it follows from the Declaration that it is their duty to recognize the fundamental and unalienable rights of the individual not only against other individuals, but also against the government itself, and to make these rights effective.

The Declaration of Independence is silent as to the manner in which the fundamental and unalienable rights of the individual against the government to restrain it from destroying or diminishing his fundamental rights are to be made effective. This problem had, however, been partly solved at the time the Declaration was made. The solution was, for the people to impose such constitutional prohibitions upon the governments as were found needful for the purpose of securing these rights. The practice of imposing such constitutional prohibitions or governments arose among the people of England. The belief in the necessity of such constitutional prohibitions was held with peculiar tenacity by those who emigrated from the British Islands to the American colonies prior to the Revolution. The American colonists were Englishmen, Scotchmen, Irishmen and Welshmen of the most progressive and liberty-loving type, with an infusion of persons of the same type from the nations of Europe, who insisted that every expedient found useful at home for the maintenance of individual liberty and peaceful society should be transplanted to their new home and made effective there.

From early times it had been the practice of the English people, when they perceived that a certain kind of governmental action had a tendency to destroy or diminish fundamental rights, to compel the government to concede to them that it would not act in that manner. Having obtained such a concession, they made it a part of the fundamental and supreme law of the land, binding on the government itself. When they perceived that a particular kind of governmental action had a tendency to destroy fundamental rights unless taken in a certain manner or by a certain process, they compelled their government to concede that all this kind of action of government except that taken in the conditional manner, should be prohibited; and they made this conditional prohibition a part of the fundamental and supreme law of the land. Thus, through the dealings between the people of England and their governments and through the dealings of the people of the American colonies with their governments, there had been evolved and formulated, at the time of the American Revolution, a number of constitutional prohibitions, some absolute and some conditional, all designed to secure fundamental rights. The instruments in which these constitutional prohibitions were formulated were Magna Charta, the English Bill of Rights, the Massachusetts Body of Liberties, the English Habeas Corpus Act, the English Declaration of Rights and the Virginia Declaration of Rights. These constitutional prohibitions, however, at the time the United States came into existence, had not been made effective as the supreme written law of the land, but were only mandates from the people to the legislature and executive which were enforced, so far as they were enforced at all, by political or revolutionary action of the people.

When the American Colonies, as States, immediately before and after the Declaration of Independence, established written constitutions, they inserted in them, with a greater or less degree of completeness, the constitutional prohibitions against governmental action, as then formulated by the English-speaking peoples. When the Constitution of the United States was formed and the general government of the Union thus given full powers for the general purposes, no constitutional prohibitions against the general government were at first inserted; but by the insistence of the States, nine amendments were almost immediately adopted, containing all the constitutional prohibitions against action by the general government theretofore formulated in England and the Colonies for the protection of fundamental rights. The Constitution imposed on the States some constitutional prohibitions, but left it doubtful whether the general government had superintending and correcting power over the States for the purpose of making these prohibitions effective. The fourteenth amendment imposed further prohibitions on state action and gave the general government the needful superintending and correcting powers.[1]

The Supreme Court of the United States has used language, in speaking of the fundamental rights of the individual, which shows that, in the opinion of the court, there are, according to our philosophy, fundamental rights of the individual under a law which is supreme even over the Constitution, and that the Constitution recognizes and guarantees these rights. It has spoken of "certain fundamental rights, recognized and declared, but not granted or created, in some of the amendments to the Constitution" and which "are thereby guaranteed . . . . against violation or abridgment by the United States, or by the States, as the case may be."[2]

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[1] Civil Rights Cases, 109 U. S. 1, 23.

The Supreme Court also, in the Insular Cases recognized that some of the prohibitions in the Constitution relate to "natural rights." Its words were:[3]

> We suggest, without intending to decide, that there may be a distinction between certain natural rights, enforced in the Constitution by prohibitions against interference with them, and what may be termed artificial or remedial rights, which are peculiar to our own system of jurisprudence. Of the former class are the rights to one's own religious opinions and to a public expression of them, or, as sometimes said, to worship God according to the dictates of one's own conscience; the right to personal liberty and individual property; to freedom of speech and of the press; to free access to courts of justice, to due process of law, to an equal protection of the laws; to immunities from unreasonable searches and seizures, as well as cruel and unusual punishments; and to such other immunities as are indispensable to a free government. Of the latter class are the rights to citizenship, to suffrage . . . . and to the particular methods of procedure pointed out in the Constitution, which are peculiar to Anglo-Saxon jurisprudence.

These "natural rights" have since been fully recognized by the Supreme Court, and to them the name "fundamental rights" has been definitively applied.[4]

The Supreme Court has also distinguished between those constitutional prohibitions of governmental action which are for the purpose of securing the fundamental rights of the individual, and the constitutional limitations which arise out of qualified grants of power. In practice, the former are treated as fundamental, and hence all other provisions of our constitutions are interpreted so as not to conflict with them, and all governmental action inconsistent with them is nullified. The Supreme Court has said of the prohibitions imposed on the United States by the Constitution which concern fundamental rights, that they "go to the very root of the power of congress to act at all, irrespective of time or place."[5] The same idea was expressed more fully in the same case as follows:[6]

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[2] Logan vs. The United States, 144 U. S., 263, 293.

[3] Downes vs. Bidwell, 182 U. S., 244, 282.

[4] Hawaii vs. Mankichi, 190 U. S. 197, 217, 218; Dorr vs. United States, 195 U. S. 138, 144, 148.

> There are general prohibitions in the Constitution in favor of the liberty and property of the citizen, which are not mere regulations as to the form and manner in which a conceded power may be exercised, but which are an absolute denial of all authority under any circumstances or conditions to do particular acts. In the nature of things, limitations of this character cannot be under any circumstances transcended, because of the complete absence of power.

In the above quotations from the decisions of the Supreme Court, only the constitutional prohibitions imposed on the government of the United States are considered. As, however, all American state constitutions impose substantially the same constitutional prohibitions upon state governments, the same line of reasoning applies to these. Moreover, the fourteenth amendment places upon the United States government the responsibility for seeing to it that the States observe the most fundamental of these constitutional prohibitions.

The proposition which was above advanced as the first basic proposition of the American philosophy—that there are certain fundamental and unalienable rights of the individual against all other individuals and hence certain fundamental and unalienable rights of the individual against the government, which can be most effectively secured by constitutional prohibitions against certain forms of governmental action contained in written constitutions and made the most fundamental part of the supreme law of the land—would therefore seem to have been established.

The proposition advanced as the second basic proposition of the American philosophy—that all organized communities are corporations—doubtless requires no such elaboration as the first.

We have seen that from this first proposition it follows that governments are agents of the governed for a definite purpose—the securing of the fundamental and unalienable rights. The people governed are the principals, whether they institute their government or not; and when they attain the capacity of securing these rights, they may rightfully institute their own governments, and become the responsible principals in fact. Thus we have a collective body of principals and a collective group of agents organically and permanently united under a common name. When the idea of a corporation is reduced to its essence, this is exactly what a corporation is. The governed and the government in such case form an artificial personality and we call this artificial personality a corporation. All corporations require for the carrying out of the agency a written constitution, which is the supreme internal law of the corporation and also an instrument of recognition of the supreme external law under which the corporation exists. Every written constitution is also a power of attorney from the members of the corporation, as principals, to the governing board, as agents, which declares and defines the objects of the corporation, and makes a distribution of powers and functions among the various parts and branches of the governing agency.

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[5] Downes vs. Bidwell, 182 U. S. 244, 277.

[6] Downes vs. Bidwell, 182 U. S. 244, 294, 295.

It is because we believe that all organized communities are corporations that we provide written constitutions for all organized communities under the American system. In independent organized communities, called States, the people make the constitution through a specially created constitution-making body of representatives. For municipal corporations, the constitution or charter is enacted by the legislature of the State, though usually the legislature merely registers the charter prepared by the people of the municipality. The constitution of a State is made the supreme law of the land, and contains constitutional prohibitions addressed by the people to all branches of the government, forbidding the kinds of governmental action deemed destructive of or dangerous to the fundamental rights of the individual. These prohibitions equally apply to all the municipal and other corporations of the State, since these exist in subordination to the State. In all constitutions of States, the functions of government are distributed among the parts of the governing agency (and in the case of federal States between the member States and the Union), so as to establish proper checks and balances between the parts and members, and enable them all to work together harmoniously in the accomplishment of the object of the corporation.

The corporate form of action is necessarily democratic, since all the members assembled have the ultimate control. It is necessarily representative, especially as respects legislative action, since all the members cannot take the time to meet and deliberate concerning the by-laws of the corporation, and must therefore elect delegates to represent them for this purpose. When corporate transactions are widely extended, the tendency is for corporations to form themselves into a greater corporation which is given jurisdiction for the general purposes. Thus the corporate form of action necessarily results in corporations organized on federal principles.

The corporate form of organization requires that there should be some superintending agency within every corporation or external to it, to prevent the corporation from violating the object for which it was created, and to prevent particular governmental agents from going beyond the functions assigned to them. In corporations for social or industrial purposes, when the internal superintending agency proves inadequate, the courts are made external superintending agents for this purpose. Under the American system, the courts exercise this superintending function also for all organized communities, and thus the courts of the States and the United States exercise this function under the various constitutions. As, however, the object of all our governments is to secure the fundamental and unalienable rights of the individual, the courts under our system, have the function, in cases arising under the prohibitions of our written constitutions concerning fundamental rights, of judging whether or not the action ordered, permitted or prohibited by the legislature or the executive is contrary to the constitutional prohibitions, and hence of judging whether or not it is an infringement of these fundamental rights. In this particular class of cases the courts, who are themselves only a part of the governing agency, cannot, of course, be allowed to have absolute finality, though in the vast majority of cases the decisions of courts of final jurisdiction, even in this class of cases, have been and doubtless always will be satisfactory to the people and will be accepted as final. In the exceptional cases, some method of revision must of course be provided, but the method adopted must be such as will be most likely to secure fundamental rights, and the most careful safeguards must be provided so that it shall be understood that the process of revision is solely for this purpose, and so that the revision shall really have this effect.

Our philosophy is thus a complete and logical whole. The doctrine that there are certain universal and unalienable rights of the individual under a supreme law which we recognize as the law of God, or as the law of nature, or the law of the society of nations, conforms to our belief in the moral worth and dignity of the individual. From the existence of these fundamental rights, it follows that the individual has correlative rights against the government, that all government is an agency to secure the fundamental rights, and that all organized communities are corporations. We therefore insist upon the corporate form of organization for all American States, with its democratic, representative and federal institutions, with its written constitutions containing prohibitions against governmental action destructive of or dangerous to fundamental rights, and with its superintendence by the courts as tribunals bound to apply these constitutional prohibitions as fundamental and supreme law, subject to revision in cases involving fundamental rights by such a special tribunal or such special electoral process as the people of the state or nation may think best adapted to secure these rights. We regard the corporate form of organization as the only form which is logically consistent with our philosophy, and as the most suitable form by which to secure the supremacy of this higher law and the universal and unalienable rights of the individual under that law.

Having thus reached a conclusion concerning the general American philosophy of government, it remains to consider how we apply this philosophy in our relationships with the annexed countries.

If there are fundamental and unalienable rights of the individual, they are, as has been shown, universal. They are rights which equally belong to all men under a supreme universal law. The doctrine of fundamental rights and all that part of our philosophy on which we base our doctrine of fundamental rights, therefore, we are logically compelled to recognize as in force everywhere in the world exactly as in the United States. We hold that every person living has these fundamental rights, and that wherever they are not recognized and secured by government, the situation is abnormal and temporary. It is therefore our primary duty to all annexed countries to institute governments for them which will secure these rights. This we have actually done. In the instructions of President McKinley to the Philippine commission charged with taking over the civil government of the Philippines from the military authorities, it was said:

> There are certain great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom. . . . . There are also certain practical rules of government which we have found essential to the preservation of these great principles of liberty and law. . . . . These principles and these rules of government must be established and maintained in [the] islands for the sake of the liberty and happiness [of the people of the islands], however much they may conflict with the customs or laws or procedure with which they are familiar. . . . . Upon every division and branch of the government of the Philippines, therefore, must be imposed these inviolable rules:

> That no person shall be deprived of life, liberty or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence; that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offence, or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches or seizures shall not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or *ex post facto* law shall be passed; that no law shall be passed abridging the freedom of speech or of the press or the rights of the people to peaceably assemble and petition the government for a redress of grievances; that no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed.

The Supreme Court of the United States, in a case involving the fundamental rights of an individual in the Philippines, quoted these instructions, and commented on the statement of fundamental principles which they contain, as follows:[7]

> These words are not strange to the American lawyer or student of constitutional history. They are the familiar language of the Bill of Rights, slightly altered in form, as found in the first nine amendments of the Constitution of the United States, with the omission of the provision preserving the right of trial by jury and the right of the people to bear arms, and adding the prohibition of the thirteenth amendment against slavery or involuntary servitude except as a punishment for crime, and that of art. 1, § 9 to the passage of bills of attainder and *ex post facto* laws. These principles . . . . were carefully collated from our own Constitution, and embody almost verbatim the safeguards of that instrument for the protection of life and liberty.
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> When Congress came to pass the act of July 1, 1902, [the Organic Act of the Philippines], it enacted, almost in the language of the President's instructions, the Bill of Rights of our Constitution. In view of the express declaration of the President, followed by the action of Congress, both adopting, with little alteration, the provisions of the Bill of Rights, there would seem to be no room for argument that in this form it was intended to carry to the Philippine Islands those principles

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[7] Kepner vs. United States, 195 U. S. 100, 123, 124.

> of our government which the President declared to be established as rules of law for the maintenance of individual freedom. . . . .
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> How can it be successfully maintained that these expressions of fundamental rights, which have been the subject of frequent adjudication in the courts of this country, and the maintenance of which has been ever deemed essential to our government, could be used by Congress in any other sense than that which has been placed upon them in construing the instrument from which they were taken.

It was undoubtedly the purpose of the President and Congress, in thus establishing in the Philippines these "great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom," and these "practical rules of government which we have found essential to the preservation of the great principles of liberty and law," to extend our philosophy of government and the fundamental principles of our Constitution to the Philippines, in case such extension was necessary. At that time it was uncertain whether it was necessary that such extension should be made by act of Congress, or by executive action authorized or ratified by Congress, or whether such extension occurred automatically and as a necessary result from our philosophy and the principles of the Constitution, by the mere fact of annexation. Since that time the Supreme Court has resolved that doubt, to the satisfaction of the people of the United States, of the annexed countries and of the civilized world in general, by holding that our philosophy of government and the essentials of our Constitution and our political system do extend of their own force to every annexed country at the moment of annexation and by the mere fact of annexation. This has been done by the court holding that all the prohibitions of the Constitution having for their purpose the securing of the fundamental rights of the individual, are in force in every annexed country from the moment of annexation.[8]

The specification of the constitutional prohibitions which secure fundamental rights, made in the President's instructions above quoted, ratified in the Organic Act of the Philippines, and held to be correct by the Supreme Court, with the approval of the people of the United States and of the annexed countries, has definitely determined the parts of our Constitution which form our Bill of Fundamental Rights and which extend to their own force to the annexed countries. There is, therefore, no occasion to insert a similar Bill of Fundamental Rights in existing Organic Acts by amendment or to embody such a Bill of Rights in Organic Acts hereafter enacted. Organic Acts expressly or impliedly extending the Constitution of the United States to annexed countries are, so far as the Bill of Fundamental Rights is concerned, merely declaratory of the existing situation. Even if an Organic Act of an annexed country makes no reference to the Constitution of the United States and contains no Bill of Rights, the annexed country has the benefit of the Bill of Fundamental Rights as collated in the President's instructions above quoted, which have been approved by the Supreme Court, as fully as if this were embodied in its own Organic Act; and, in legal effect, all annexed countries have had the benefit of these constitutional prohibitions from the instant of their annexation. Thus, as the logical result of our philosophy of government—or, as the lawyers say, of the underlying principles of the Constitution—the effect of annexation of a country by the United States is to make every person there residing who elects to come under the jurisdiction of the United States, a free man, equal in his fundamental rights with every citizen of the United States—an inheritor of the accumulated wisdom and experience of the centuries in safeguarding individual liberty and human society, and a participant in the work of evolving new safeguards for the same purpose.

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[8] Hawaii vs. Mankichi, 190 U. S. 197, 217; Dorr vs. United States, 195 U. S. 138, 144, 148.

Consistently with our general philosophy, also, we regard each of the annexed countries as a state and a corporation. We consider the inhabitants of each country as the members of the corporation and we regard the government, notwithstanding the fact that it may contain citizens of the United States appointed by the United States, as the governing agency of the annexed country for the purpose of securing the fundamental rights of the individual.

Those parts of the Constitution of the United States which distribute or recognize the distribution of the functions of government within the United States, according to our democratic, representative and federal forms are, as we recognize in the organic acts or constitutions enacted by Congress for the annexed countries and as the Supreme Court has decided, in force in the annexed countries to the extent that the people of the countries are fitted to act according to these forms. It is of course impossible reasonably to apply this part of our philosophy in any other manner.[9]

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[9] Downes vs. Bidwell, 182 U. S. 244; 290-293; Dorr vs. United States 195 U. S. 138, 143-145.

After the Spanish War, before we fully realized what our philosophy involved, and while we were under pressure of the necessity of using some political terms to express our relationship with the annexed countries, certain political terms brought over from the usage of other nations having a philosophy of government different from ours, came into use to describe this relationship. In view of our philosophy as now established, it seems necessary to discard all the old terms and to substitute new ones, which will be consistent with our ideas and acceptable to the people of the annexed countries. The only two of the old terms which have survived with us are the words "dependencies" and "possessions." Both of these are feudal terms, based on the assumption that the monarch possessed his realm and its appurtenances and dependencies, as his property. The outlying regions beyond the borders of the realm—the dependencies—were under the practically absolute power of the feudal monarch. They were regarded almost in the light of his private property. The words "dependency" and "possession" cannot, it would seem, logically be used by us, in view of our philosophy as now determined, except as applied to small isolated and practically uninhabited places under our jurisdiction. "Empire" is the Roman *imperium*, the absolute power of the military commander. "Dominion" is the Roman *dominium*, the absolute power of the Roman land-owner over his land and all persons and things thereon. "Colony" is the Roman *colonia*, the body of *coloni*, or farmers, sent out with the military garrisons to the walled towns built to hold conquered and annexed lands and populations. "Territory" is the Roman *territorium*, a place held by terror—that is, the region adjacent to the walled town which the *coloni*, or farmers, cultivated under the protection of the military garrison, the incursions of the natives being prevented by the terror which the garrison inspired.

The word-root from which we may derive terms appropriate to express our ideas of the relationship between nations and their annexed countries, according to our philosophy as now established, seems to be the root of the Latin word *socius*. *Socii* were friends, allies and partners—persons who recognized each other as equals before the law as respects their fundamental rights, and who were working together in some operation of common benefit. In international politics, under the influence of humane notions, we are beginning to speak of the whole world as "the society of nations." The New England Confederation of 1643 described itself as a "consociation." The term "associate states" would seem to be appropriate to apply to annexed countries which on account of their distance from us, or for other reasons, we have not incorporated into the United States. Those annexed countries which we have incorporated into the United States but not admitted as states into the Union, we might call "insociate states." The whole political organization composed of the United States and its associate and insociate States might be called "the American Sociation."

It is clear that it does not follow from the American philosophy that our annexed countries have the right of immediate or ultimate international independence. The Declaration based the rights of the United Colonies to international independence, first, on the fact that Great Britain had shown, by a long series of acts, that it denied the existence of fundamental rights in the practical sense in which the Americans believed in them, and, second, on the fact that the Colonies, as United States, were fitted to undertake the duties and responsibilities of an independent nation. Neither of these facts exists in the case of our annexed countries. We not only institute governments among them to secure to them these fundamental rights, but by means of written constitutions with which we provide them by our legislative action, we give them the benefit of those practical rules of government formulated in constitutional prohibitions forbidding certain kinds of governmental action which the experience of the civilized world has shown to be destructive of or dangerous to individual liberty and civilized society, thus making the security of fundamental rights effective. By these same constitutions we implant among them the rudiments of those democratic, representative and federal forms and institutions which are shown by experience and reason to be necessary in order that communities may themselves secure the fundamental rights of the individual and live in true liberty, and we take measures to develop these forms and institutions as rapidly as possible. We make the courts the guardian of these constitutions, and all provisions relating to fundamental rights receive the same interpretation in the annexed countries as at home. The situation as between the United States and its annexed countries as respects the securing of fundamental rights is therefore exactly the reverse of that which existed between Great Britain and the American Colonies in 1776. Moreover, none of the annexed countries is fitted to fulfil international responsibilities. The situation of these countries is therefore in this respect exactly the reverse of that of the United Colonies in 1776.

But though our philosophy does not lead to international independence of the annexed countries, it does follow from it that the annexed countries have the right, as they progress in the art of self-government and in appreciation of their duties to themselves and to the rest of the world, to be progressively relieved from habitual control by the legislature of the nation and to have the powers of their local legislatures and the participation of their people in their own government progressively increased. Thus it follows that in lieu of the control by Congress, there should be substituted, in the case of each annexed country, by a gradual process proportioned to its progress in civilization, a diplomatic control of the relationships between the United States and the annexed country, in the interests of the American Sociation and the society of nations, under the habitual and ordinary charge of the chief executive of the nation; the annexed countries participating by representation in this diplomatic control, and the Congress intervening only in extraordinary cases, as a superintending, nullifying, correcting or registering body. This substitution of diplomatic for legislative control is what the American Colonies demanded from Great Britain. The substitution has actually been made as respects the relations between Great Britain and the self-governing annexed countries of Canada, Australia, New Zealand and South Africa. It is due to the dignity of self-governing annexed countries that such a substitution should be made.

When the inhabitants of the distant annexed countries become skilled in the art of self-government and familiar with our philosophy and our system, they will undoubtedly perceive the broad liberty they obtain while in association with us, and will realize that international independence might prove to be fictitious and might expose them to exploitation by local dictators and foreign intriguers. If we now recognize these countries as associate states and assure them, as soon as they become skilled in the art of self-government, an independence limited by a control on our part which will be essentially diplomatic and in which they themselves will participate, it is to be expected that they will voluntarily, though gradually, abandon all schemes for international independence and finally come to accept with satisfaction and appreciation a relationship of permanent connection and diplomatic association with the United States.

THE TREATY OF GHENT—A CENTENARY ESTIMATE

BY FRANK A. UPDYKE

Dartmouth College

The principal justification in presenting my subject which has been made familiar through the scholarly work of Henry Adams and Rear Admiral Mahan, lies in the fact that the attention of the English speaking world will be fixed upon this event in the coming year, as Great Britain and the United States unite in celebrating a century of peace between these two great nations. It may, therefore, be not inappropriate, at this time to endeavor to arrive at a proper estimate of the treaty which marks the beginning of the hundred years peace. It has been somewhat the fashion to speak disparagingly of the treaty of Ghent, inasmuch as it contained no reference to the principles for which the war was ostensibly fought. Often, it has been referred to as a "treaty of boundaries," or a mere "treaty of peace"—accomplishing nothing more than the cessation of hostilities. In order to determine whether the treaty of Ghent merits any higher estimate than this common one which has been accepted by one writer after another, it may be pertinent to consider first, the opinion of contemporary history, and secondly, the estimate of a century later, based upon the results of the treaty.

The treaty was signed on Christmas eve 1814, and ratified by the Prince Regent in council the 27th of December. The vessel which bore the copies of the treaty to America did not reach New York until February 11. An express rider was immediately despatched to Washington with the American copy of the treaty. He arrived there three days later, February 14. The treaty was at once considered in a cabinet meeting and, on the following day, President Madison communicated it to the senate for advice and approval.

The senate requested the President to transmit all the papers connected with the negotiations which had not previously been communicated. The next day, February 16, the President submitted the papers received since December 1, the date of the last transmission. The senate, thereupon, voted unanimously to ratify the treaty, so that when Baker, the bearer of the British copy of the treaty, arrived at the state department on the evening of February 17, everything was in readiness for the exchange of ratifications which at once took place between Baker and the Secretary of State. The following day February 18, the treaty was proclaimed and published.

The celerity with which the approval was given to the treaty indicates clearly the attitude of the United States government toward the treaty. The Republicans, undoubtedly, were glad to bring to an end a war which had brought the government into extreme difficulties, political and financial; while the Federalists who had consistently opposed the war, naturally welcomed peace, especially as peace would restore again the commercial prosperity of New England. The Federalist press, it is true, which before had criticised the government for not making peace, now criticised the terms of the treaty. It claimed that nothing had been secured save the cessation of hostilities, but even this, it was generally admitted, was worth rejoicing over. The Republican papers considered the treaty most acceptable, and eulogized the American commissioners. Even the Federalist papers had nothing but commendation for the American representatives. The *Philadelphia Gazette*, before the treaty was signed, paid this high compliment to the American Commissioners:

> After a most careful and dispassionate survey of the correspondence which has taken place between the American and British commissioners at Ghent every American with feelings of just pride and exultation must confess that their representatives on this occasion have manifested a power of reasoning, added to forcibleness of demonstration, chastity and comprehensiveness of language, which entitles them to a superior rank as able and intelligent diplomatists. The manner in which they have handled the subjects presented for their consideration, the promptness and facility with which they have met and overcome every impediment in the course of their discussions, are evidence not only of a deep study and research, but of minds intrinsically devoted to the true interests of their country. In all the correspondence that has appeared the American ministers evidently maintain a vast superiority as much in the matter as in the style of the communication.[1]

The favorable reception of the treaty was reflected not only in the action of the government and the language of the press, but in the spontaneous rejoicing of the people in city and town throughout the United States. As soon as the news of peace reached the United States it was quickly communicated to the cities and towns of the country, by means of express riders who were paid large sums for their services. In New York where the news was first received, there was at once a great demonstration. An immense procession paraded the city and brilliant illuminations everywhere appeared. Guns were fired, the public buildings decorated and every possible manifestation of joy was shown. The news of the treaty came eight days after Jackson's brilliant victory at New Orleans, and the two events were celebrated together, a transparency on the city hall suggestive of the two had the American eagle bearing in one talon the thunderbolts of war and in the other the olive branch of peace.[2] The news of peace reached Philadelphia Sunday, February 12, as the people were returning from church. There was general rejoicing, strangers greeting one another with good wishes, mutual congratulations and hand shaking.[3] Here, too, a public celebration, consisting of illuminations and fireworks, signalized the event before the ratification of the treaty had taken place. In Boston, where the news arrived on the 13th, the schools were dismissed, business suspended, a parade immediately formed of the military organizations of the city and a general celebration voted by the legislature.[4] In the smaller places throughout the country similar demonstrations occurred.[5]

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[1] *Philadelphia Gazette*, quoted in the *National Intelligencer*, December 18, 1814.

At Washington the ratification of the treaty came in time to enable the restoration of peace to be celebrated on Washington's birthday. A large procession, in which all the trades were represented, took place. The proclamation of the ratification of the treaty was read and speeches were delivered. A banquet in the evening closed the day's celebrations.[6] On the 4th of March, the President issued another proclamation appointing the second Thursday in April as a day of national thanksgiving for the establishment of peace.[7]

The treaty was the more acceptable to the public, because by the victory of New Orleans the war closed with great brilliancy to the American forces. This feeling was expressed in a letter to one of the commissioners in which it was stated that it was "pleasant to grant peace to a defeated enemy and especially when that enemy was the proud and powerful Briton."[8]

The American commissioners, themselves, while disappointed in being unable to secure any promise upon the part of the British of a discontinuance of the practice of impressment or of paper blockades; and while they failed to secure in the treaty any renewal of the fishing privileges considered the treaty the best that could be expected under the circumstances, and to be without dishonor to the United States.[9]

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[2] *New York Spectator*, February 13, 1815.

[3] Otis Amidon to Russell, February 20, 1815, *Russell's Papers*, no. 1362 and no. 1067.

[4] *Weekly Messenger*, February 17, 1815.

[5] *Weekly Messenger*, February 17, 1815.

[6] *Weekly Messenger*, February 24, 1815.

[7] Richardson's *Messages and Papers of the Presidents*, vol. i, pp. 560–61.

[8] John L. Smith to Jno. Russell, April 2, 1815, *Russell's Papers*, no. 585.

Public opinion, in the United States, in general, was most favorable to the treaty.[10] The failure to secure any statement relative to impressment and paper blockades was not regarded important, inasmuch as these practices on the part of the British government had ceased with the overthrow of Napoleon; and it was the general opinion that they would not be practiced again.[11]

The manner in which the treaty was received in England, may also aid in forming an estimate of the treaty.

Although the people of Great Britain, as well as the British government, were glad to conclude peace, they were displeased at the terms. The English press, in general, considered the treaty humiliating to Great Britain. The *London Globe* the next day after the news was received from Ghent said; after enumerating the conditions of the treaty,

> In this description of the treaty, we read the humiliation of ministers in every line. It forms indeed a deplorable contrast with the high sounding threats and boasts of that part of the public press devoted to their service. The waiving of some rights, and the mere retention of others, is a miserable finale to a war that we were told must not cease until after the Americans had been "confoundedly well flogged" which, it was boasted, must dismember the Union, overthrow the government and sweep the American navy from the ocean, not leaving a single bit of bunting or a rag, or stitch behind. But after the state to which ministers had brought the country by their extravagance and the war by their incapacity, if they had been able to terminate it upon any terms not absolutely dishonorable and ruinous, if they had effected a lasting peace, although not an advantageous one, and not merely purchased a short and precarious respite, with a certainty of the renewal of war, with increased force and violence at a time when America shall have both internally, and in her relations with the European powers, many advantages which she does not now possess, we would not be disposed to complain.[12]

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[9] Gallatin to Monroe, December 25, 1814, *Writings of Gallatin*, vol. i, pp. 645–47; Clay to Monroe, December 25, 1814, *Monroe Mss. Papers*, vol. xiv, no. 1822.

[10] J. Smith to Russell, May 6, 1815, *Russell's Mss. Papers*, no. 2041; Madison to Benj. Austin, March 7, 1815, *Madison's Mss. Papers*, vol. vii, p. 84.

[11] *Writings of Madison*, vol. vii, p. 311, Message of Madison to Congress, February 18, 1815; Monroe to the Military Committee of the Senate, *Writings of Monroe*, vol. v, p. 323.

[12] *London Globe*, December 27, 1814.

This exaggerated language is of course that of a paper bitterly opposed to the English ministry. The *London Times,* also of the opposition press, was opposed to the ratification of the treaty.[13] In its issue of December 27, it announced what it called the "terms of the deadly instrument."[14] In an editorial of December 31, it professed to believe that the ratification of the treaty by Madison depended upon the outcome of the campaign against New Orleans. It denied that any general satisfaction had been produced by the signing of the treaty.[15] To accept peace in the midst of reverses was humiliating to the British people. Peace would have been more palatable had it come earlier when the British arms were successful.[16] The brilliant success won by the small American navy, which had been a subject of derision at the beginning of the war, wounded the pride of the British which centered in the navy, then as now, the first in the world.[17] It was said: That the law of nations had always been the law of the strongest; that England was therefore, de jure the Dictator of the maritime law of the civilized world.[18] After the first victories of the American navy the English papers stated that the United States navy "must be crushed to atoms, that peace must not be entertained until this object should have been achieved.[19] The English press with few exceptions had been bitter in its denunciation of the United States for making war, at a time when England was engaged in, what she regarded, a life and death struggle with Napoleon.[20] The papers had throughout the peace negotiations insisted that peace should not be made until America should have been "beaten into submission."[21] It was said that peace made at New York or Washington and at the "point of the bayonet" was preferable to negotiations at Ghent.[22] After the British victories of August and September it had been declared that the "fancied conquerors of Canada" would be "mighty" glad to come on their knees and cry "paenitet, miserere nostrum."[23] The separation of the New England States from the Union and the alliance of these with Great Britain was declared likely to follow.[24]

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[13] *London Times,* December 30, 1814.

[14] *London Times,* December 27, 1814.

[15] *London Times,* December 30, 1814.

[16] Beasley to Russell, October 20, 1814, *Russell's Papers,* no. 1847.

[17] *National Intelligencer,* April 3, 1813.

[18] *London Evening Star* quoted in *National Intelligencer,* April 3, 1813.

[19] *London Times,* July 2, 1814.

[20] *London Times,* May 17, 1814.

[21] *London Sun,* July 22, 1914.

[22] *London Times,* July 2, 1814, *London Sun,* August 23, 1814.

[23] *London Times,* October 15, 1814.

The popular British demands had included the recognition by the United States of the maritime claims of Great Britain; the restitution of Louisiana; the rearrangement of the boundary in accordance with the wishes of Canada; the establishment of a permanent Indian territory, and the exclusion of the United States from all participation in the fisheries of British North America.[25] In view of all these demands it was difficult for the English people to become reconciled to a treaty which secured scarcely one of the things expected and which concluded a war which had been far from creditable to British arms. In this war according to English publications, with a navy on the American coast exceeding that of the enemy in the proportion of ten to one, Great Britain had lost two out of every three fights, had lost three times as many men and had had 1700 merchant vessels captured.[26] To make peace with this record, made vastly worse by the closing campaign of the war, was thought to invite the scorn of other nations.[27] The success of the American navy it was believed threatened the maritime ascendency of Great Britain and the possessions of her transatlantic colonies.[28] Dissatisfaction with the terms of the treaty on the part of the people of Canada, predicted by the English press, proved to be true. The people of British North America had been urgent for a change in the boundary between these provinces and the United States, which should give them absolute control of the navigable rivers and lakes lying between the two, with the adjacent territory, which would prevent invasion from the United States by water.[29] The anti-ministerial paper, the *London Morning Chronicle* and the *London Courier*, were favorable to the treaty and considered the terms as most honorable for the country inasmuch as Great Britain yielded nothing in the treaty with reference to the maritime questions.[30] Partisan feeling, however, so strongly dominated the English papers that their utterances can not be taken as absolute criteria of public sentiment. But that the people, generally, tired of the war, welcomed peace was shown by the demonstrations with which they greeted the first news of peace.[31] At Birmingham a large crowd witnessed the arrival of the mail which brought the news of the treaty, and immediately took the horses out and drew the coach to the post office amid loud acclamations.[32]

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[24] *London Star*, September 29, 1814.

[25] *National Intelligencer*, April 28, 1814.

[26] *Edinburgh Review*, November, 1814.

[27] *London Sun*, February 17, 1815.

[28] *London Sun*, February 17, 1815.

[29] *Quebec Mercury*, quoted in *New York Spectator*, June 30, 1814.

[30] *London Morning Chronicle*, December 27, 1814, *London Courier*, December 27, 1814.

The British commissioners failed to receive the general commendation which was bestowed upon the representatives of the United States. In the discussion of the treaty in the House of Commons, April 11, 1815, in connection with a motion which had been made proposing an address of thanks to the Prince Regent for the treaty of peace, the British commissioners were severely censured, for having acted with "gross mismanagement" in the negotiations. The basis of the criticism was that "in this treaty no subject of dispute between the two countries, that existed before the signature does not still exist and all the pretensions advanced by his majesty's ministers in the course of negotiations were, one by one, abandoned by them."[33] Alexander Baring and others spoke in a similar condemnatory way. Goulburn, one of the British commissioners, spoke in defense of himself and his colleagues. The motion was, however, carried by a vote of 128 to 37. In the House of Lords, two days later, the ministers were again censured, when discussion arose over a motion made by the Duke of Wellington of an address to the Prince Regent requesting him to place before the house copies of the correspondence between his Britannic majesty's plenipotentiaries and those of the United States. Earl Bathurst, secretary of state for foreign affairs, had great difficulty in defending the ministers and in preventing the passage of the motion.[34] Approval of the treaty in England, thus, was much less general than in the United States. This appears to justify the contemporary opinion in the United States that, while the treaty was honorable to both nations, the United States gained the greater advantage from it.

As we view the treaty a century later we find no reasons for reversing the judgment of contemporary history; but with the lapse of time, additional reasons appear for giving to the treaty of Ghent a rank among the important treaties of this nation. The principal reasons for such an estimate of the treaty, aside from the fact that it ended the war, are; by it the United States secured from Great Britain a more complete recognition of her political independence and power; the claims and demands of Great Britain were rejected; the best usages of international law were confirmed and developed; an enduring peace was secured.

That the treaty secured from Great Britain the recognition of the

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[31] *Weekly Messenger*, February 17, 1815.

[32] Adams *History of the United States*, vol. ix, p. 55.

[33] *Annual Register*, 1815, p. 114.

[34] *Annual Register*, 1815, p. 16, et seq.

United States as a political equal, is shown not so much in the terms and wording of the treaty itself, as in the negotiations which led to the treaty. The British commissioners at the outset, expected to impose terms; but they were obliged to recede from one position to another, until, at last, they were forced to agree upon a treaty, mutually reciprocal in its terms.

The American commissioners maintained the dignity and sovereign rights of the United States on every point of issue, compelling the recognition of the absolute political equality of the United States.[35]

The treaty is deserving of credit, also, because of the fact that the claims and demands urged by the British commissioners were rejected. These demands included: a recognition of the British claim to the allegiance of all of her native-born subjects; the creation of a separate Indian territory, as a buffer territory between Canada and the United States, which, at first, was made a sine qua non; revision of the boundary lines between the United States and the British colonies; the relinquishment on the part of the United States of the right to keep a naval force upon the great lakes; the abrogation of the North East fishing privileges and the adjustment of territory acquired by the war upon the principle of uti possidetis.

These demands, if allowed, would have resulted in the loss of a large and valuable territory to the United States, and the establishment of an Indian state which would have been a constant source of friction. The territory demanded in the form of a permanent Indian territory and that for communication between Halifax and Quebec was estimated to amount to 364,000 sq. miles and to be worth $500,000,000.[36] The American commissioners, themselves, stated their objections to these terms on the ground that these would "inflict a most vital injury to the United States by the dismemberment of their territory, by arresting the natural growth and increase of population and by leaving the northern and western frontier equally exposed to British invasion and to Indian aggressions; "that they were dishonorable to the United States in demanding from them to abandon territory and a portion of their citizens; to admit a foreign interference in their domestic concerns, and to cease to exercise their natural rights on their own shores and in their own waters."[37]

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[35] Henceforth the United States is to be accredited all the rights and privileges belonging to any other state in the family of nations.

[36] *Providence Patriot,* November 12, 1814.

[37] American commissioners to British commissioners, August 24, 1814, *A. S. P. Foreign Relations,* vol. iii, p. 711, et seq.

A treaty founded on such terms, it was maintained, could not be permanent. Instead of settling differences it would give rise to new ones, "sow the seeds of permanent hatred and lay the foundation of hostilities for an indefinite period."[38] The American commissioners held that the only terms upon which peace would be permanent would be those reciprocally honorable to both countries. It is to the credit of the commissioners of both nations that such terms were, finally, agreed upon.[39]

From an international law point of view the treaty of Ghent is deserving of recognition. The terms and wording of the treaty are in accord with the best usages of international law and, in one particular, that of arbitration, contributed in no small degree to the development of modern international law practice. Of the provisions of the treaty, which were important in reaffirming the best international practices which prevailed before the Napoleonic struggle, are; the acceptance of the principle of status quo ante bellum, after a war which has not been waged for conquest; the agreement that there should be no destruction of public property which had been taken in the war; that private property should be left in as nearly the same position as possible as before the war; and that all archives, records, deeds and papers, public and private, should be restored and delivered to the proper authorities and to persons to whom they belonged.

The two states mutually agreed to pay the cost of the maintenance of prisoners; and, also, to use their best efforts to secure the abolition of the slave trade. All the usual diplomatic forms, except one, were observed in the treaty. The one exception was the signing first by the English commissioners of both the British and American copies of the treaty, instead of signing first only the copy to be retained by Great Britain and allowing the American commissioners to sign first the copy to be retained by the United States. John Quincy Adams objected to this departure from the regular usage and his protest, apparently, had its effect in the treaty of commerce which was signed in 1815, in which we find the reciprocal order of signing adopted.[40]

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[38] American commissioners to British commissioners, August 24, 1814, *A. S. P. Foreign Relations*, vol. iii, p. 711, et seq.

[39] It may be noted that Gallatin favored a stipulation for the mutual disarmament of the Great Lakes, an arrangement which was made between the two countries two years later, when John Quincy Adams was secretary of state.

[40] The later treaty also contained the alternative principle in accordance with which each state appears first in the preamble and ratifying clause of its own copy of the treaty.

The treaty of Ghent is often referred to as a treaty of boundaries, and the provisions which it made for the settlement of boundary controversies constitute a signal feature of the treaty. Four distinct commissions were provided for the determination of boundaries, whose methods of procedure have had an influence upon the development of international arbitration methods. The provision that, in case of the failure of the boundary commissioners to agree, the differences should be submitted to a friendly sovereign or state for arbitration is important as marking the first instance, on the part of the United States, of such mode of reference of international disputes to the arbitration of a third state.

Finally, the treaty effected not merely a cessation of hostilities; but, as the century has shown, it effected an enduring peace between the two English speaking nations. Senator Lodge has shown in his recent book *One hundred Years of Peace* that amicable relations have not at all times existed during this century, but that the differences which have arisen have been settled without war owing to the ever increasing bond of friendship and good-will between the two countries. To have laid the foundation for such an international friendship and to have aided in the settlement of controversies through diplomacy and arbitration is no small achivement for any treaty. In providing a method for the settlement of vexatious boundary disputes, the treaty very largely removed the danger of war over such contests.

The treaty of Ghent, while only a treaty of peace and amity, must be given credit for the treaty of commerce which was negotiated under powers granted to the same commissioners who had signed the political treaty. The commercial treaty renewed the important features of the Jay treaty of 1794 and laid the foundation of that friendly commercial intercourse which has since prevailed between England and America. The liberal provisions of the treaty of commerce included; freedom of trade between the United States and Great Britain's European possessions; the abolition of all discriminating duties upon American goods and American vessels, with the inclusion of the "most favored nation clause;" the admission of American vessels to the trade in the East Indies and provisions for the appointment of consuls. While the duration of this treaty was only four years, the exact terms of the commercial convention were renewed in 1818; and again, in 1827 they were indefinitely extended.[41]

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[41] Convention Respecting Fisheries, Boundary and Restoration of Slaves, 1818, art. iv, b; *Treaties and Conventions, 1776–1900* (Malloy), Convention Continuing in Force, art. iii of Treaty of 1818 (*ibid*).

To sum up: the Treaty of Ghent may be deemed worthy of commendation not merely because it ended a needless war; nor because it was made by the most distinguished group of men ever commissioned by the United States to negotiate a treaty, being composed of Adams, Gallatin, Clay, Bayard, and Russell; but also, because it registered an advance in the international prestige of the United States; because it excluded all claims that would have been derogatory to the United States; because in form and spirit it upheld the best usages of international law; and, finally, because it has resulted in an unbroken peace of one hundred years between Great Britain and the United States.

THE EFFECT OF THE BALKAN WARS ON EUROPEAN ALLIANCES AND THE FUTURE OF THE OTTOMAN EMPIRE

BY NORMAN DWIGHT HARRIS

Northwestern University

The Near Eastern question, or Turkey in Europe, has been one of the most difficult and vexatious problems of European statesmen and diplomats ever since the signing of Europe's first treaty with the Ottoman Turks, at Carlowitz, in 1699. It has had a greater influence upon European diplomacy than any other single issue. Reputations have been made and lost by it. Three of the great military conflicts of the nineteenth century—the Russo-Turkish struggle of 1828-29, the Crimean war, and the Russo-Turkish contest of 1877—were caused by one or another phase of this question; and now, within the past two years, recourse to arms has been had twice again over the same debatable ground. The congress of Berlin and the diplomatic moves that followed the war between Russia and Turkey in 1877, led to the creation of the German-Austrian League, and ultimately to the present Triple Alliance. The diplomatic and strategic acts which preceded the war between the Balkan allies and the Ottoman Empire in 1912 and those that accompanied the breaking out and the conclusion of the conflict against Bulgaria in 1913, culminated in new combinations, some of which have elements of permanency.

It is not essential to our purpose to recount here the long story of the struggles and efforts of the European powers to adjust the Balkan difficulties and to settle the question of Turkey in Europe. It will perhaps be sufficient to recall to mind the fact that, through all the years from the establishment of Greek independence till the fall of Adrianople, the European concert failed signally to solve the problem; and that it was the Balkan states themselves who, exasperated by the slowness of the great powers in taking the initiative upon the utter failure of the party of Union and Progress to establish order, security and good government in the European provinces of Turkey, solved the Macedonian phase of the question and transferred the main issue across the Bosporus into Asia Minor.

Two difficulties have always stood in the way of the European states whenever serious efforts to settle the thorny problem of Turkey in Europe were contemplated: a general ignorance of the real conditions and the proper remedies, and the self-interests of the individual powers leading to a lack of initiative and coöperation. Disraeli was fond of saying, in his day, that only two persons really understood the Balkan question—one a learned German professor lately deceased, and the other, himself—and that he had forgotten it. If the truth were told, Lord Beaconsfield himself never thoroughly comprehended the full significance of the problem, or studied it with an impartial, clear-sighted judgment and a sincere desire to solve it successfully. If he had done so, the British government might not have been credited with a half triumph in 1878 and the question remained practically unchanged till 1912. Unfortunately he saw the situation only through English eyes and from the British standpoint. Like most of the statesmen of Europe who have directed the policy of their states in the Near Eastern diplomacy, he had the interests of his own country more at heart than the welfare of Turkey or the peoples under its control. The Eastern question "only interests Europe," said Bismark at the congress of Berlin in 1878, "through its effect upon the relations of the great powers among themselves." This has remained true from that day to this.

In spite of the good intentions and efforts of British and Austrian ministers, the reforms promised for European Turkey by the Ottoman government at the time of the Berlin congress were never introduced and the excellent European plans pressed on the sultan from 1904 to 1908 with considerable diplomatic vigor never passed beyond the paper stage. Owing to the failure of the new constitutional government to "make good" in Macedonia after three years' trial, due to the dissensions of the leaders, the inexperience and incompetency of the officials selected for the work and the attempt to "Ottomanize" the whole country and obliterate all national lines, the Balkan affairs again reached a crisis in 1912. In February, negotiations were opened between Bulgaria and Greece resulting in an alliance for peace and protection formed in May to last three years. Similar conversations were begun between Bulgaria and Servia, culminating in a treaty of alliance on March 13. Protection was to be given the Christians of Macedonia; and, in the event of a war and victory over Turkey, the territory should be so divided by a line running from the intersection of Servia and Bulgaria to the junction of the Struga valley with Lake Ochrida, that the lion's share of Macedonia would go to Bulgaria. Military conventions were concluded between the same powers in May and September; and, owing to a massacre of Bulgarians at Kotchany and Servians at Berané and the announcement that the fall manoeuvers of the Turkish army would be held near the Bulgarian frontier, the armies of Bulgaria, Servia and Greece were all mobilized on September 30 and October 1. The great powers counseled patience and caution, but proceeded to approach Turkey on the matter of reform with great deliberation. Impatient of delay and suspicious of the motives of the concert, the Balkan allies sent an ultimatum to the Ottoman government on October 13. The Turkish grand vizier refused to treat with them and, after he had concluded peace with Italy on the 15th, declared war upon the Balkan states. Thus began the first war that brought defeat and disaster to the Turks and culminated in the peace of London, signed on May 30, 1913, depriving them of most of their European possessions.

While the delegates of the Balkan allies and of Turkey were holding deliberations in Buckingham Palace, the representatives of the great powers met daily near by and kept in touch with all that went on, in order that their own interests and those of the peace of Europe should in no way be injured by the proposed treaty. The European concert posed as a neutral, both in this conflict against Turkey and in the war that followed against Bulgaria; but this does not mean that its acts were always impartial, consistent and intended to further the interests of all the interested parties. Sir Edward Grey, representing Great Britain, deserves great credit for the impartiality and the spirit of conciliation with which he conducted all the negotiations. He was well sustained in his position and acts by France and Russia, but the same cannot be said of members of the Triple Alliance. And just here we notice another of the chief weaknesses of the European concert. No state, not even the best-intentioned, had elaborated a definite Balkan policy—one that should settle the Balkan question once and for all time and that should conserve at the same time the welfare and vital interests of all concerned: the Balkan states, Turkey and the European neighbors. The result was disastrous. Those states who, like Austria and Italy, had special interests in the Turkish European provinces and pressed their schemes, got what they wanted; but the affairs of the Balkan allies and of Turkey were allowed to drift, as if they had little relation to the rest of the problem.

By insisting upon the creation of a large, autonomous Albania, Austria and Italy for the sake of their special interests in the Adriatic and its seaboard forced Servia to relinquish her hope of a little window on the

Adriatic sea and Greece and Montenegro to give up certain legitimate territorial ambitions. This undoubtedly contributed largely to the conditions and forces which brought about the second Balkan war; for Bulgaria refused Servia compensation elsewhere, and Greece, feeling uncertain of the decision of the concert in the matter of the Aegean islands, was ready to make good her losses in Albania by territorial acquisitions in Macedonia. Then with a seeming indifference to their own earlier policy and decisions, the European concert permitted the treaty of London to be torn into shreds, the Balkan allies to fight over the spoils of the first war, and Turkey again to enter the arena and to recapture Adrianople. Russia would have gladly prevented these last acts in the drama. She offered to mediate between the Balkan states and sent two warships to the eastern entrance of the Bosporus to warn the Ottoman government to keep its hands off; but such a program could only have been carried out with the support of Austria and England, which unfortunately was lacking at the critical moment.

The indecision, or lack of policy, among the great powers, while not affecting the harmony of the elements composing the Triple Alliance and the "Quadruple Entente," has resulted in a curious but effective drawing together of certain forces heretofore opposed to each other. In the first place, Roumania, led by the pressure of public sentiment which had been strongly opposed to the government's policy of neutrality in the first war, the desire to adjust the Bulgarian-Roumanian boundary dispute to its own satisfaction and the wish to see the Balkan question settled quickly and in a stable manner, joined Servia and Greece in the contest with Bulgaria. The last named country, formerly the recognized "strong man" and self-appointed leader of the Balkan states, fell from its high estate—a result not a little induced by the recapture of Adrianople and the threatened invasion of Bulgaria by the Turks. Her place as a real, but a prudent and conciliatory, leader has been taken by Roumania. The young Balkan alliance, which started so determinedly and auspiciously, also fell to the ground with the outbreak of this second war; but it has been promptly replaced by another, which exists in fact, though not officially announced by name, composed of Roumania, Servia and Greece. This has been amply attested by the unanimity and cooperation displayed by the new allies in all the activities of the second Balkan war, the negotiations for peace and the subsequent events. The important and conciliatory rôle played by M. Take Jonescu, the Roumanian minister of the interior, in bringing the Turko-Greek treaty negotiations to a happy and successful conclusion is another evidence of the existence and the value of the new combination.

Roumania is indeed determined not only to retain the leadership in Balkan politics, which rightfully belongs to her, but also to use her influence to further in every way the peace and prosperity of the Balkans. She recognizes the individual rights and interests of the various states, and desires that a happy equilibrium should be maintained among these small powers. The salvation of the Balkans, in fact, depends upon the successful cultivation of the "Balkan spirit" among its native states, a spirit which combines the sentiment of the Balkans for the Balkan peoples with the broad humanitarian doctrine that each community is entitled to a livable territory and the right to share equitably in the trade and prosperity of Europe and the Near East. Heretofore the selfishness and rivalry of these states has been the chief obstacle to the development and prosperity of the Balkan peninsula. Ever since they secured independence from Ottoman control, they have remained separate, suspicious and hostile. The debatable land of Macedonia and Albania has been a thorn in their sides and a source of discord and bitter rivalry. Now that this question has been settled, it is high time to lay aside these old animosities and to coöperate for the common good. Every state can afford to concede something commercially, or otherwise, for the common welfare. It is encouraging to see one community, Roumania, taking the lead in this direction; and it is to be hoped that all the others will coöperate with her to promote peacefully and adroitly the interests of the Balkan peoples, not only for their own sake, but also for the welfare and peace of Europe.

The treaty of Constantinople signed by Turkey and Bulgaria on November 13, 1913, restored Adrianople and Kirk Kasilli to the former, assured her of sufficient territory in Europe to make her interest in the Balkans still a vital one, and created, strange as it may seem, a strong friendship between Bulgaria and the Ottoman government. The Bulgarians are more Turanian than Slavic and at bottom nationally nearer to the Turks than to the Slavs of the Balkans. Commercially, too, their interests have much in common, and, now that Bulgaria has been left out of the Balkan alliance, various other considerations draw her towards the Ottoman Empire. Although there is no official confirmation of a Turko-Bulgarian "entente"—widely mooted in Turkish and Grecian circles at the time of the signing of the treaty of Constantinople—little doubt exists that these powers will coöperate in the future.

Count Berchtold, the Austrian minister of foreign affairs, declared in a speech to the Austro-Hungarian diet on November 20, 1913, that the territorial expansion of his country was ended with the annexation of

Bosnia and Herzegovinia in 1908. In various other speeches during the past year he has made it clear that henceforth Austria's interests in the Balkans will be economic rather than territorial, and that she is definitely committed to the preservation of the "status quo." All further expansion for Turkey and Bulgaria being out of the question, the interests of all three powers in the Balkans have become very largely identical and are being unified through a mutual competition with the Serb and the Greek. Ferdinand of Bulgaria has recently paid an extended visit to Vienna, and an understanding has probably been reached on matters of common interest. Since Roumania, whose friendship Austria had been studiously cultivating for some years, has become the friend and supporter of Servia—an old rival and competitor of Austria in the matter of territorial and commercial expansion in the Balkans—the statesmen of the Ballplatz welcomed the discredited king of Bulgaria as a friend whose services in the future may be invaluable. So there is a drawing together of Roumania, Servia and Greece on the one side, and of Turkey and Bulgaria sustained by Austria-Hungary on the other; and an equilibrium is being established in the Balkans, which possesses elements of strength and stability.

Another noticeable effect of the Balkan wars is the large increase in the war budgets of Austria and Germany recently passed by the national assemblies of the two countries. $67,290,000.00, in addition to the regular funds, will be expended by Austria-Hungary on her military service, and her army increased by 31,000 within five years. It has been already raised by 58,000 officers and men during the past two years, within which period Germany has added over 38,000 to her military forces with the official proposal to recruit 136,000 more officers and men inside of the next few years. Russia and France are planning to equalize these additions by similar increases in their own armies. Among the considerations which moved the statesmen of Berlin and Vienna to adopt this new military policy, none was more potent than the fact that the presence of a Slavic alliance in the Balkans sustained by Russia will hereafter neutralize a large portion of the Austrian army in the event of the outbreak of hostilities between the great powers of Europe, for a number of regiments will have perforce to be permanently stationed near the southern boundary of the Austrian Empire. To offset this situation, as well as to secure the coöperation of Great Britain in preserving the "status quo" in the Mediterranean naval situation, in maintaining the equilibrium of the Balkans and in procuring an equitable share in the trade and future economic development of Asia Minor, the Austrian government has lately begun to cultivate the friendship of the British. The recent visit of the Austrian heir-apparent, Franz Ferdinand, to London, his warm reception there and the frantic efforts of the Austrian press and statesmen to conciliate the British leaders, all indicate clearly which way the wind blows.

The great result, however, of the Balkan wars has been the removal of the Near Eastern question from the Balkans to Asia Minor and its transformation—for some time to come at least—from a territorial to an economic and commercial contest. As a consequence, the first and most fundamental step in the direction of a final and successful solution of the Near East problem is the preservation of the integrity of the Ottoman Empire. Fortunately, no one is ready for its partition. None of the large or small powers who claim to have special interests in Asia Minor are prepared for such an emergency. Nor, since not a single state among them has clearly formulated its own policy to be pursued, pursuant to the culmination of such an event, can any of them view the dismemberment of Turkey with equanimity. Then, too, events have been coming so fast in the near Orient of which a famous French writer once said: "The World moves, but the Near East stands still," that old Europe herself has hardly had time to grasp the full meaning of it all. She desires a little breathing spell in which to catch her breath and get ready for the next round.

All the members of the European concert are a unit in desiring the maintenance of the present Empire of the Turks. This, however, does not mean that the powers have united upon a common policy towards the Asia Minor kingdom, or have evolved any practical plan for the real solution of the Near Eastern question. On the contrary, from this point of mutual accord the members of the Concert begin almost at once to diverge from each other in action and in policy. Germany and Russia, acting independently of the others, are insisting upon the introduction by the Ottoman government of certain reforms in Armenia. Germany, in spite of the remonstrations of Russia and France, has accepted a high position in the Turkish army for one of her own officers; but Great Britain has declined to permit any of her officials to take prominent governmental positions in the Turkish service. Broad, statesmanlike views of a great international problem are being obscured by the special interests of the different European statesmen, each contending for the commercial and material advancement of his own particular state. Instead of quietly and thoroughly studying the question and deciding upon a definite scheme and a common program of action the fundamentals of which could be adhered to and executed gradually and along general lines, no matter what the future may bring, the great Powers are utilizing all their energies in a competition for commercial concessions and special spheres of influence within the Turkish Empire. And, unless something unforeseen happens to change the present policy of the concert, it is not unlikely that the sudden failure of the existing régime or the outbreak of another crisis in Turkey—two or ten years from now—will find the powers as ill-prepared for prompt and concerted action as they were in 1878, 1908 or 1912.

The hold of the four leading states, Russia, Germany, France and Great Britain, upon certain portions of the Ottoman dominions is remarkable, and in all probability can never be shaken off. Russia has a large interest commercially in the northeastern section of Asia Minor, and a special religious and ethnical connection with the Armenians of that region. A large portion of the old kingdom of Armenia lies now within her own domains and many of the Armenian residents of Turkey have become Russian subjects for the sake of protection. Then too, the great Tzar of Moscow is the recognized head and protector of all the Greek (and others not Roman Catholics) Christians in the Ottoman Empire. In addition, the Russian government possesses a great hold in Palestine, Syria and elsewhere through the numerous Russian Jews who look to them always for protection, the thousands of Russian pilgrims who find their way to Asia Minor every year and the innumerable Russian and Greek churches, monasteries, hospitals, shrines and public buildings scattered all the way from Jerusalem to Constantinople.

Germany controls the Anatolian and Bagdad railways—now nearing completion and running through the heart of the country some 1750 miles from its capital to Bagdad—and various other concessions in Anatolia, the richest section of the Empire. She too, has her churches, hospitals, schools, and public buildings extending in a long line from the Cathedral on Mt. Zion to their magnificent embassy on the heights of Pera, opposite Constantinople. And she stands ever ready to rush to the assistance of the German trader or missionary. France controls the Beirut-Damascus railway, 806 miles in length; is trying to get possession of the Damascus-Mecca railroad, built and owned by Turkey; and has secured a concession to build the Samsun-Sivas road, 1050 kilometers long, in northern Anatolia with branches into Armenia and Kurdistan. She possesses important economic rights in Syria, including the construction of harbors for several of the chief ports, which she would like to see marked out as a special sphere for her own economic activities. The

French Republic, also, is the historic protector of all the Catholics in Palestine and Syria and lends her official assistance to all the various Catholic orders that, like the Franciscans, have numerous monasteries, schools and public buildings of all kinds on Turkish soil. Great Britain enjoys the greatest popularity among the people of Syria, Arabia, Mesopotamia and Turkey generally today. This is due chiefly to her reputation for honesty and fair-dealing, and the excellence of her methods in education and training. Then it is well known that the English government does not officially support British schools and churches and has no definite program of territorial expansion. Yet even this country has its own commercial and strategic interests to guard in Syria, Mesopotamia, Arabia and Busra. Her subjects own the Smyrna-Aidin railway, together with various other economic concessions in Asia Minor, and within the past month an English corporation has been given the control of the imperial naval works at Constantinople with complete powers of reconstruction and development.

Just now "conversations" are very nearly completed between Germany and Great Britain, and well under way between Germany and France, in which a serious and skillful attempt is being made to define accurately the precise sphere of influence of each of the countries concerned and to divide equitably their respective shares in the future economic development of the Ottoman Empire. Germany wants the lion's share of Anatolia—the richest and most populous section of Turkey—and northern Mesopotamia. France has her eyes on northern and central Syria and a portion of Northeastern Anatolia and western Armenia; while Great Britain seeks to protect her interests in southern Mesopotamia (Bagdad and Busra), Arabia, Palestine and southern Syria. This move towards a commercial invasion and partition of the Ottoman Empire, though in some ways open to question and criticism, has one excellent feature. This is the recognition of the right of all nations to share in the opening of new fields of economic development and financial investment, which is the outcome of the new humanitarian spirit in international relations, that is rapidly replacing the old selfish individualism. It is a great step forward—particularly towards the realization that the Near Eastern question is an international, not an individual state, problem, and must be settled upon a purely international basis. For the first time, three at least of the members of the European concert have united in a serious attempt to define their positions and interests clearly. It is true that thus far this is largely a selfish move; but it will go a long way towards the establishment of a general understanding on certain vital points, the prevention of irritating intrigues and conflicts and the creation of a sound basis for concerted action and coöperation in the future.

For the present, much depends on the success or failure of the new Turkish government. The party of Union and Progress, now in control and the only organized political agency in the Empire, secured its return to office in January, 1913, through the coup d'état resulting in the death of Nazim Pasha and the resignation of Kiamil Pasha. Its success in recovering Adrianople won for it a sudden, yet secure place in the public eye, in spite of its failures and mistakes in 1909, 1910 and 1911. The appearance in its ranks of some of the younger statesmen of the best families, like Prince Said Halim, the present grand vizier, his brother and others, has given the party a prestige and social standing heretofore lacking. Some of the able and honest politicians who retired to private life two years ago because of disagreements with the earlier leaders of the party, have returned and are furnishing a backbone to the organization; and a good start towards the reorganization of the government and the introduction of many needed reforms has been made.

The difficulties and dangers, however, which beset its pathway, while not unsurmountable, are nevertheless tremendous and alarming. Great tact, patience, perseverance and good judgment are essential to the success of the new régime, all of which the leaders may possess. But more than these qualities, excellent as they are, the reforming statesmen should have an extensive experience in public affairs, a discriminating and statesmanlike grasp of the whole situation, its needs and possibilities, and a whole-hearted and unselfish devotion to the country and its people. The earlier failures of the party of Union and Progress may have taught its promoters several important lessons; but the confidence of the public in their ability, sincerity and disinterested patriotism can only be restored through a series of material, wide-spread and national successes.

Three things the new government will have to contend with: political corruption and incapacity within its own circles, a strong and general movement toward a decentralization of power throughout the Empire, and the influence of European states within and without the country. With an excellent system of law and a form of government based on certain fundamental and workable principles, Turkey has been one of the worst governed states in the world for at least three centuries. This has been due largely to political corruption and the centralization of all authority in the hands of the Constantinople rulers and their representatives, who were more concerned in squeezing money out of the citizens of the Empire than in ruling it wisely and well. The monarchs for many years have been either incapable, indolent men who permitted their officials to exercise every form of graft, or unscrupulous, skillful tyrants, like Abdul Hamid, who exercised the sovereignty very largely for their own aims and interests.

Now that the current has turned towards constitutional government, a general revulsion of feeling against the Constantinople officials has set in, accompanied by a lack of confidence in the central authority and a desire to shift to the provincial assemblies as much power as possible, particularly in local affairs. In this connection it must be borne in mind that the Turks came into Asia Minor and southeastern Europe as conquerors and that they have always looked upon the other nationalities as subject peoples entitled only to such rights and privileges as should be meted out to them. In Europe the Ottomans were greatly outnumbered and could not afford to compromise a great deal in this matter. But in Asia Minor they possess an immense majority and should be much more conciliatory, particularly as there are thousands of Armenians, Kurds and Arabs who need only a little generous and fair treatment to make them loyal and staunch supporters of the new régime. The leaders of the party of Union and Progress are, unfortunately, showing signs of weakness at this point, and are clinging as firmly as ever to the reins of power. They have declined to admit the representatives of the other nationalities in the Empire to the new national assembly on the basis of proportional representation. For the present, they have tried to meet the situation by granting to each class a limited representation in this popular body, provided a certain percentage of these members shall belong to the party of Union and Progress, and by giving more power to the provincial assemblies together with a fuller representation of Armenians, Arabs, Syrians or Kurds, as the case might be.

The exhaustion of the country and the enormous increase in the public debt caused by the recent wars, the lack of ready funds or large private capital, the pressing need of complete organization in the whole governmental machinery, and of innumerable public improvements, and the very limited number of trained native officials and experts, are all forcing the Turkish government to resort to the aid of foreign capital and of European civil and military officers. They are trying, however, to get this assistance without seriously compromising themselves or selling their country and its resources—a task requiring consummate diplomatic skill, such as only the Turks possess, and a resourcefulness inexhaustible. Asia Minor possesses considerable natural wealth and a trade of no mean proportions; and, if the European states can be held off a few years so that their holdings and concessions do not become too extensive and perpetual, the Turks may work out their own salvation successfully. The situation is indeed difficult and precarious, but the key to it lies in the ability of the Ottoman statesmen to establish an efficient government and to give proper protection to the foreign interests and investments, within their Empire. For, if this is done, the European concert is not likely to inaugurate any movement for the joint occupation or division of the Turkish domains.

As a "buffer state," Turkey has a well recognized position and function; and, as a field for commercial and industrial investment, she is becoming a source of great interest and profit to all the powers, including Italy. If she, then, can justify her position as a well-governed neutral state and as an economic factor in the development of the Near East, her position is assured for years to come. To accomplish this, economy and steady progress are necessary. No more wars, or fruitless civil conflicts, must be indulged in. Peace is the greatest need, and wish, of Turkey as well as of the Balkan States. To make its position secure, the Ottoman government must, in addition, reorganize its army, create a small but efficient navy, and cultivate certain international friendships. With a well-trained and properly equipped army, its relations with Bulgaria and Austria may become a bulwark of safety against local disturbances. With a respectable navy, her statesmen can court the friendship of the Triple Alliance which is striving to maintain a balance of naval power in the Mediterranean through the fleets of Austria and Italy, and raise a barrier against the aggression of Russia or England.

The contest over Turkey, known as the Near Eastern question, has become, therefore, an economic rather than a territorial problem, and has been removed from the Balkan Peninsula to Asia Minor. Yet, as the Slavs may one day break the Austro-Hungarian Empire, and with it the Triple Alliance, the Turks may disrupt the Triple Entente by starting a contest for the possession of their territory, which will force Russia and Great Britain to take opposite sides and arouse Europe to an unprecedented struggle. England, France and Austria are now strongly for peace; and the new policy of commercial division may lead to nothing more than a peaceful partition of the Ottoman territories. It most certainly behooves the European concert, in any event, to study the situation with great care, to observe the developments with alertness and watchfulness, and to elaborate a definite policy with regard to the future, so that it will not again be caught napping, or be the laughing stock of the World for its slowness and lack of coöperation, as on former occasions.

INTERNATIONAL RESPONSIBILITY OF THE STATE FOR INJURIES SUSTAINED BY ALIENS DURING CIVIL WAR

BY EDWIN M. BORCHARD

Department of State

One of the most interesting and practical phases of the international responsibility of the state is its responsibility for injuries sustained by aliens during civil war. Injuries sustained in actual belligerent operations are not usually compensated, on the principle of non-liability for war damages. The importance of a separate discussion of injuries sustained during civil war arises out of the legal position which may be attributed to insurgents and the resultant liability of the state for injuries committed by them. The difficulty of the subject is also enhanced by the fact that the practice of states has differed to some extent in the application of such rules as we may consider to govern the subject.

The question of terminology need not detain us long. Publicists have distinguished between sedition, insurrection, and civil war; but for our present purposes we may regard these as different degrees of a political uprising of part of a civilized society against the lawfully constituted authorities.

Different theories have prevailed as to the liability of the state for injuries sustained by aliens in civil war. One doctrine, supported by Brusa, Bar and other distinguished publicists, is to the effect that the state is responsible on principle for all such damage sustained by aliens. This doctrine of responsibility, briefly, is based on one of several theories: (1) the fault of the state in permitting a revolution to arise; (2) the theory of expropriation, according to which the state at the sacrifice of individual property derives a public benefit from the suppression of a revolution; (3) the theory of risk, according to which the state assumes the risk of maintaining order—in other words, the state becomes a guarantor of safety; (4) the theory of social insurance, by which the state fulfills its highest mission in preserving its integrity and should compensate those individuals who suffer accidental sacrifices in the attainment of this end.

These theories, however interesting, have all been abandoned. The doctrine which has now received general support is that on principle the state is not responsible for the injuries sustained by aliens at the hands of insurgents in civil war unless there is proven fault or a want of due diligence on the part of the authorities in preventing the injury or in suppressing the revolution.

This doctrine is predicated on the assumption that the government is reasonably well ordered, and that revolution and disorder are abnormal conditions. "Where a state has fallen into anarchy, or the administration of law has been nerveless or inefficient, or the government has failed to grant to a foreigner the protection afforded citizens, or measures within the power of the government have not been taken to protect those under its jurisdiction from the acts of revolutionists," says Hall, the general rule is suspended and foreign states may not only intervene by force for the protection of their subjects, but may demand indemnities, whether the injuries were sustained at the hands of the government forces or the insurgents. The mere fact that the state is subject to frequent revolution does not, however, affect the general rule of non-liability. The Spanish treaty claims commission, after hearing lengthy arguments, adopted the following rules:

"In order to recover for damages done by insurgents" claimants must "allege and prove that at the time and place when and where the injury was done the [government] authorities could, by due diligence, and should have prevented such injury."

"In order to recover for damages done by the [government] forces" it is necessary to prove "that the acts done which resulted in the injury were done wantonly and unnecessarily."

The burden of proof is on the claimant. International commissions have enforced this rule, notwithstanding the difficulty of proving governmental negligence. In mob violence cases, on the other hand, notwithstanding the general rule of evidence, the government has generally been held to prove due diligence.

The rule of non-liability for injuries sustained in civil war extends to those inflicted during actual hostilities or by the agents or authorities of the government in the actual suppression of the revolution and admittedly necessary to that end, but is confined strictly to injuries inflicted in belligerent action against the insurgents. The titular government is accorded the free exercise of war rights. Thus it may, without incurring liability, prevent communication with the revolutionists, provided that in the exercise of the measure the rules of war are not violated.

Governments have at times, however, voluntarily paid indemnities to their own citizens and to foreigners for injuries inflicted by their own troops and in such a case the United States would probably insist on equal treatment for American citizens.

The government *is* liable for violations of the rules of war and particularly for wanton acts of pillage and incidental occupation of neutral property by government soldiers. The legitimate government is not in general liable to the neutral owners of property destroyed by the government troops while in the hands of rebels, for it has then become enemy property subject to destruction. Where the government, however, receives a benefit from neutral property taken from the rebels and originally seized by the latter, equity requires, it has been held, that it should pay for the property and for injuries sustained by the property through the unusual use to which it has been subjected while in government hands. The Spanish treaty claims commission made awards for the seizure and use by Spanish forces of private property in Cuba, regardless of the purpose of the appropriation, whether to satisfy the needs of the army or to prevent its falling into the hands of the enemy. The government is bound to make compensation for the use of neutral vessels in its ports, and for their detention for purposes of the war. This exercise of the right of angary and embargo is often regulated by treaty. A state is also liable for injuries sustained by aliens in closing a port without due and proper previous notification, a violation indeed of the laws of blockade. In this connection, it is important to determine whether a state of war or only a state of insurgency exists; for while a blockade of its own ports by the parent government will be respected if war exists, it will not be respected, if war does not exist and the decree is not effectively enforced by physical naval power.

Let us now examine certain limitations on the general rules governing state responsibility for injuries occurring in civil war. These arise out of (1) the recognition of the belligerency of the insurgents by the parent state or by foreign governments, or the existence of actual belligerency; (2) the continued residence of a foreigner in the territory in insurrection; (3) participation in the rebellion on the part of a foreigner; and (4) the effect of amnesty.

Recognition by the parent government of the belligerency of insurgents against it or the existence in fact of a state of war releases the state from responsibility for all acts of the insurgents subsequent to the recognition. Recognition by some foreign governments only, operates as a release as against their subjects, and other non-recognizing powers are not necessarily bound. The rule that the government is responsible for such acts of insurgents as were perpetrated through its own negligence is therefore suspended by the act of recognition. Formal recognition is not, however, necessary to raise insurgency to the plane of belligerency. Belligerent rights may be acknowledged without recognition and this is usually the case on the part of the parent government. In the Civil War, for example, the non-responsibility of the United States resulted not from the recognition of the belligerency, but from the fact of belligerency itself, whether recognized or not by other governments. The importance of establishing the fact or a recognition of belligerency is therefore great. Up to that point the government may treat the rebels as traitors and criminals and apply to them its penal law, and is subject to such responsibility as arises out of a proven want of diligence to prevent their acts, and in some cases, it has been held, out of the failure to punish the guilty offenders. There is some support for the doctrine which has been advanced that a government can avoid responsibility for the acts of insurgents by extending recognition or treating them in fact as a belligerent party. After recognition of belligerency begins, the parent government is no longer liable, under any circumstances, for any of the acts of unsuccessful insurgents, nor for its own failure to act wherever the insurgent power extends. If the revolutionists are successful, as we shall see, the government created through their efforts must assume responsibility for their acts. Recognition does not affect the liability of the parent government for the unlawful acts of its own agents and authorities. The seizure of neutral property by government forces or depredations by officered soldiers of the government impose liability upon the state at all times.

The effect of a continuous residence by aliens in the territory rent by civil war is to place them in the same position as nationals. By remaining, they assume the risk of injury, within the limitations prescribed by the rules of war. No doctrine is more strongly emphasized by Latin-American publicists than the general principle that aliens coming to and settling in a country must share its fortunes, and have no claim to better treatment than nationals. In the case of injuries occurring during civil war, without fault of the authorities, the United States has been more observant of this principle than the countries of Europe. In 1888, Secretary of State Bayard said:

> It is the duty of foreigners to withdraw from such risks and if they do not, or if they voluntarily expose themselves to such risks, they must take the consequences.

Such was the position assumed by the United States in the Civil War. It has been upheld by international commissions and would under ordinary circumstances probably represent the position of the United States. To visit a locality in a state of insurrection is an assumption of and voluntary exposure to the risks involved.

Aliens who participate in an insurrection should and do generally forfeit the protection of their own government. Aliens who had given aid and comfort to the Confederates were excluded from the right to compensation before the domestic and international commissions sitting after the Civil War. A similar rule was applied in Colombia and other Latin-American republics by their domestic commissions and by the Spanish treaty claims commission. Such participation is a palpable forfeiture of neutral protection. Several treaties between European and Latin-American countries provide expressly that aliens taking part in civil wars or insurrections or undertaking political office forfeit their exemptions and privileges as foreigners and are to be treated as natives.

The effect of amnesty to the rebels upon the liability of the government is somewhat uncertain. When the government has treated the rebels as criminal offenders, and they did not attain the status of revolutionists, an amnesty operates as a pardon and a failure to punish criminals, a recognized ground of state responsibility. So in the "Montijo" case the umpire, Bunch, held the government liable, particularly because the grant of the amnesty deprived the claimant of the power of trying the responsible rebels for the injuries inflicted. Secretary of State Fish applied the same rule to Mexico, there having been no recognition of belligerency. In fact, in numerous cases before courts of arbitration, the failure to punish was regarded as one of the principal grounds of state liability. The failure to prosecute the rebels, and indeed their appointment to office under the government has been considered a tacit approval of their acts and an assumption of liability on the part of the government. In several important cases, however, the granting of an amnesty to rebels has been held not to constitute an assumption of liability for their acts. Thus the United States was not considered, by an amnesty, to have assumed liability for the acts of the Confederates, and on principle, this appears to be the better rule.

Much difficulty is created by the case of insurgents controlling a part of a territory in insurrection and exercising authority over the area they control. The question has arisen in connection with forced loans and the collection of customs dues by such temporary authorities. Whether the general government is bound by their acts depends upon the extent to which they have become *de facto* authorities. Secretary of State Fish in 1873 asserted the liability of Mexico for forced loans levied by insurgents, basing the contention on the stipulation of the treaty of 1831 with Mexico. Treaties of the United States with most of the countries of Latin America exempt American citizens from forced loans, and in these cases it is possible that the general government will be held liable for the exaction of such a loan by *de facto* authorities exercising jurisdiction over a certain area, whether an insurgent faction or not.

The legitimacy of the collection of custom dues and other taxes by insurgents in control of a certain area depends, similarly, upon the extent to which they are temporarily *de facto* authorities. If they are in exclusive control the legitimate government has no right to demand a second payment of taxes. It was said in the case of Guastini:

> Money paid to the *de facto* authorities in the shape of public dues, must be considered as lawfully paid, and receipts given by them regarded as sufficient to discharge the obligations to which they relate. Any other view would compel the taxpayer to determine at his own peril the validity of the acts of those executing public functions in a regular manner.

The United States has always insisted that a payment to *de facto* authorities releases the tax payer from a second payment, especially where made under protest. Where the insurgents have not become actual *de facto* authorities, but have, nevertheless, collected dues, the rule as to second collections has not been uniform. It is rather a question of gracious remission of duties to which the titular government has a right.

A successful revolution stands on an entirely different basis. The government created through its efforts is liable for the acts of the revolutionists as well as for those of the titular government it has replaced. Its acts are considered those of a *de facto* government, for which the state is liable from the beginning of the revolution, on the theory that it represented *ab initio* a changing national will, crystallizing in the final successful result. Thus the government created through a successful revolution becomes liable for all services rendered to the revolutionists. The unlawful acts of successful revolutionists render the government equally liable. The successful revolutionists appear to be bound from the beginning of the revolution by the stipulations of national treaties, for the violation of which they will be held liable as successors to the titular government.

Governments have on numerous occasions voluntarily made compensation, as a matter of policy rather than as a matter of law, for the injuries sustained by natives and foreigners during civil war, limited generally to the injuries inflicted by government forces, but sometimes extended to include the acts of both parties.

The states of Latin America, exposed as they have been to constant revolutionary movements, have on numerous occasions been subjected to liability by the countries of Europe for the injuries inflicted by insurgents or during civil war. This has been in part explained by the fact that the continuous state of revolutionary unrest takes these uprisings out of the category of fortuitous events, which the government is unable, by due diligence, to prevent. The European nations, in supporting claims arising out of these civil wars, regardless of whether insurgents or authorities caused the injury, have sometimes taken the ground that the responsibility of the state is due to a lack of diligence in preventing or suppressing uprisings. This ground could hardly be general, for, as Hall remarks,

> The highest interests of the state are too deeply involved in the avoidance of such commotions to allow the supposition to be entertained that they have been caused by carelessness on its part which would affect it with responsibility towards a foreign state.

Moreover, if they were negligent in fact, it would be extremely difficult to prove, and if the claims rested upon this ground alone only few of them could be prosecuted to payment. As a matter of fact, the ground is, as a rule, advanced for plausibility alone, and assuming that the government is so organized that civil commotion is only a fortuitous event and not one invited by lack of proper political organization, we must support the Latin American republics in their endeavors to be relieved from the diplomatic pressure of claims resulting from injuries suffered in the legitimate operations incident to civil war, or caused by insurgents.

In order to avoid this pressure of claims arising out of civil wars, the Latin American states have succeeded in concluding numerous treaties with European nations by which the latter admit the nonliability of the government for injuries sustained by their subjects in civil war at the hands of revolutionists or savage tribes, provided the damage is not caused through the fault or negligence of the authorities of the government. The states of Latin America have among themselves concluded treaties providing for absolute non-liability, whether the injuries sustained by their respective citizens are due to the acts of insurgents or legitimate authorities. These states have also resorted to other methods to avoid the presentation of claims by foreigners for injuries sustained during civil war. In the resolution of the Pan-American congresses, in their constitutions, and in their statutes, they have provided that the alien taking part in a civil struggle shall be treated as a native and shall lose his privileges of alienage. These municipal regulations provide generally that the alien shall have the same civil rights as the national and shall have the right to the diplomatic protection of his own country only in the event of a denial of justice after an exhaustion of local remedies. Foreign governments, however, have not consented to be bound by any such attempts to limit their right of diplomatic intervention. With the normal growth of Latin America in political stability and a greater confidence in the independence and impartiality of the judiciary, it is probable that the pressure of foreign claims based on civil war as on other injuries will gradually diminish.

THE PROBLEM OF LABOR IN THE PHILIPPINES

BY F. WELLS WILLIAMS
Yale University

While the retention of the Philippines as a dependency is still a debatable issue, the principles upon which our government there is based are generally endorsed by the American people. These principles assume our responsibility for the welfare, present and future, of a backward race which has come under our control through the most extraordinary accident in modern history; they promise that the race thus appropriated shall be preserved from enemies without and discord within until such time as it may be prepared to maintain its autonomy; they deny the ancient theory that dependencies may be legitimately exploited for the benefit of a controlling state. However sincerely one may deplore the action of President McKinley's administration which brought this burden upon the nation, criticism of an accomplished fact has no bearing upon the problems involved in carrying out a policy necessitated by these principles. They involve a task which is onerous, but they imply an altruism the exercise of which appeals to American idealism. We are called a practical people. We are so in the material development of our territory and in the ordering of our communities built up during a century of rapid exploitation; but no one who understands the national psychology can fail to recognize the tenacity with which Americans cling to certain commonly accepted ideals. Our national history begins with a revolt against overwhelming odds in behalf of an ideal. Every one of our wars has been undertaken in defence of a professed ideal, and whatever opposition their declaration incurred has been avouched in the name of sentiment and morality. The abolition of slavery, the expedition sent to open Japan, the abundant funds subscribed for missionary propaganda and the devout proposal to abolish war are patent and familiar instances of a trait that more profoundly characterizes the American than any other modern people.

It is desirable to affirm this characteristic of our countrymen in order to comprehend the nature of such conditions as have been launched against the efforts thus far made to improve the Philippines. When confined to the work in hand—apart from recriminations concerning the events of 1898—these criticisms do not venture to impugn the justice of the principles underlying our policy; with these all fair-minded Americans are satisfied.[1] They attack the means employed to enforce this policy, and in such details as are involved in a great constructive work there are opportunities for fair-minded men to disagree. This paper is undertaken with no desire to enter upon the controversies that have arisen from such attacks. It attempts to separate the theory from its application, to ignore for the moment the right or the folly of a nation to acquire control over an alien and defenceless people, not because the moral and political question lacks importance, but because we are confronted now, in Mr. Cleveland's immortal phrase, with a condition, not a theory. The control has been acquired, and unless a political revolution in America ensues the only discussion profitable to the economist and the statesman concerns the manner in which we exercise that control. From this point of view the time required for the fulfillment of the pledge made to ourselves of ultimately releasing the Filipinos from a condition of tutelage is so considerable as to leave a determination of the date of full independence to another generation.

While it must be conceded that prolonged disputes over the tenure of our occupation necessarily imperil the success of the administration of Philippine affairs and retard the progress of our efforts to educate the people, the fact remains that those in charge of this difficult business are compelled to prosecute their trust on the theory that it will be continued to its completion. For them to act otherwise would be at once cowardly and cruel, and it is as difficult as it would be ungenerous to suspect the civil and military officers employed in those islands of being either. In order, therefore, to advance to a consideration of the practical execution of the abstract principles upon which we rest our claim to occupy the islands we must accept the continuance of our tenure there as a major premise of our theories.

The operations of a civilized government may be comprised under two groups, those of political control and of economic development. In the first are found the executive, legislative and representative machinery, national and local, and the necessary agencies for securing revenue, justice and defence. In the second may be roughly classified the various means by which a people under such a government seek what our forefathers called "the pursuit of happiness." They comprise the advancement of commerce and industry, education, communication, sanitation, the natural resources and labor of the country. In a country such as ours where existing standards of civilization have been reached through the slow process of evolution, economic development has been left to the care of the people themselves. This is less true of the states of continental Europe, where most of these forms of activity are already superintended if not controlled by government, and we are reminded by recent experience, both abroad and at home, that the interests of all the people can be preserved only through a perpetual watchfulness over their further development by the administrative power. We are advancing from a social status, where even the agencies for securing justice, revenue and defence were left more or less to the individual to acquire and retain as he could, toward that stage where no rights of ownership or regulation will be recognized except those of the state.

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[1] "A more highminded course for a great and powerful nation to pursue toward a weak and dependent people whom the fortunes of war had cast into her hands can hardly be imagined. I believe that it is wholly unique in history, and I venture the prediction that it will remain so for a long time to come. Charity and altruism among nations are not nearly so contagious as with individuals."—W. Morgan Shuster, *Journal of Race Development*, I, p. 60.

The general laxity of authority in America as compared with other nations in Christendom opposes at first sight an almost insuperable obstacle to our solution of the problem presented by the Philippines in conformity to an academic theory such as this, but an abiding trust in the essential logic of our idealism and the determined righteousness of the nation as a whole prompts the comfortable hope that, though we may fall into occasional inconsistencies and be misled by passing controversies, we will pursue the thankless task of training a whole people to take a secure place in the family of nations. Success in this endeavor depends primarily upon our comprehension of the basic elements of the proposition before us. The inhabitants of the Philippines cannot possibly be expected of their own accord to follow the good advice given them or to copy any model of government unlike that to which they have been accustomed. They have no traditions of high culture, no habits of self restraint, no practice in the exercise of responsible government. More than this, they have not even been welded into a national group by the impact of aggressive neighbors, while the paternalism of Spain and the facility with which nature assures them a bare living have combined to keep the intellectual and material standard of society at a low level. They possess no literary or institutional foundation as in China or India for the development of an indigenous culture into something hardy enough to hold its own against the aggressiveness of the western world. No reflection upon the character of the people need be implied in this statement; they stand among the older culture groups of the world as children in society, potential members of the family of nations, into the company of which they can be safely admitted when they are prepared to play the part of men with some understanding of a man's responsibilities.

This, then, is the plan of benevolent assimilation which seems to be approved by the conscience of the American people. Consistency in carrying it out demands far more scientific consideration of the economic factors involved in the organization of a state than has been bestowed upon the same elements of our industrial life at home. The novelty of this necessity has aroused some opposition among those who cannot easily understand why grown men should not be able to keep a path of progress in one part of the globe as well as another, but so long as we prefer this rather painful service to the alternative of casting the Filipino people adrift we are compelled to think out their problems for them. To this end, after establishing order in the Islands, we have proceeded to improve their physical condition by drainage, hospitals and sanitary measures, so far as funds were available, that readily commend themselves to all concerned. The same acquiescence generally attends the means adopted to improve communication by roads, railways, steamers and telegraphs between different parts of the Islands, the chief criticism upon these undertakings being that enough has not been expended in this way. Commerce, manufactures, agriculture, mining and lumbering together constitute the sources of wealth to be so judiciously administered that the Islands may continue as a going concern, while the education of the people who are to use their property is undertaken for the purpose of enabling them to profit by it in the right way. The relations between these factors in the economic problem before us are sufficiently obvious; the unknown element yet to be determined is the amount and quality of the labor that is available for the successful exploitation of a territory which must be made increasingly productive in order to sustain a population that grows both in numbers and in its desires for the best things in life.

This summary of the main elements of the economic situation in the Philippines leads to the conclusion that our problem is almost wholly comprised in the one question of labor. If the hands can be brought to the work and applied intelligently to exploiting the Islands there is reasonable assurance of their prosperity and of a happy outcome to our great enterprise; without an adequate supply of labor the economic distress resulting from the burden of taxation due to operating a costly administration system, from the refusal of capital to participate, and from the disgust of American taxpayers confronted with annual deficits, will inevitably culminate in the failure of all of our beneficent intentions and an untimely surrender of an unprofitable possession. To put the matter in another way, the issue involved in our holding the Philippines is not political or ethical or strategic—though these materially affect the event—but economic. If the venture prospers financially the Filipinos will be contented and the moral questions which vex the souls of some of us will disappear like mists in the morning.

An undeveloped country in a primitive stage of civilization may be exploited by forced labor—slavery or the corvée—by imported labor, or by training its inhabitants to do the necessary work for their own profit. The first of these methods may be dismissed as impossible today, even in the modified serfdom of the corvée. The second involves securing laborers who can work profitably in a tropical climate which excludes the European labor market as a source of supply. The last requires patience and time. Under the same conditions that confront us in the Philippines, England is the only nation that has tried the importation of contract labor on a considerable scale, and Holland the only one that has attempted to train a large indigenous population to labor regularly under scientific control. France has met with no inconsiderable success in Indo China in directing a peaceable and industrious people to support life, but these people did not have to be taught to work, their country offers few natural resources except a fertile soil, and the dependency has thus far proved commercially unprofitable, so that no lessons of great value can be drawn from her rather brief and limited experience.

The English have replenished several of the old slaveholding crown colonies with indentured labor from India, and where the population does not insure an adequate labor supply the result has been satisfactory. In South Africa the plan has met with strenuous opposition, and the self-governing colonies will have none of it. Success with this system seems to imply the practically complete extinction of the former labor supply—the result of emancipation in the British slave colonies—and the ability of the Indian government to enforce protective regulations which render the lot of the Tamil plantation hand when abroad about as fortunate as that of any man of his class in the world. There is no such collapse of labor supply in the Philippines as that which paralyzed the sugar islands of Great Britain sixty years ago; and again, it is extremely doubtful if the British would allow the engagement of indentured laborers from India in a country where they could not secure the fulfilment of the very severe conditions under which they are safeguarded in their own colonies.[2]

For these reasons and because of the strong prejudice of Americans against indentured labor it does not appear probable that this system deserves or will receive much attention as an expedient for supplying the labor demand in our dependencies. There remain the alternatives of voluntary immigration or laborers imported under contract. Continental Asia, as has been seen, is practically the only source from which immigrants fitted for tropical labor can be expected; but we have barred out the Chinese immigrant workman by extending our exclusion laws so as to cover our dependencies, and there is little prospect of any change in our attitude affecting such prohibition.[3] The same objections obtain, it may be added, against all Asiatics, but as there is no menace in free immigration from India, and the Japanese have thus far shown little desire to undergo the hardships of toil in a tropical climate, our concern in the matter is practically limited to the Chinese. While a few employers in the Philippines are still willing to advocate an unrestricted admission of the Chinese in order to develop the resources of the region, the opinion of a majority of Europeans there seems to endorse the wisdom of restriction as a policy and confine their proposals in the matter to admitting them under contract for specific undertakings.[4] The attitude of these capitalists may be less the result of conviction than a recognition of the deep-rooted and abiding opposition of both Americans and Filipinos to allowing them liberty to come into the Islands as they please; but no one who has studied the growth of the British settlements in the

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[2] Ceylon employs nearly half a million Tamil coolies and the Straits Settlements about 50,000, but all except 5000 of these are independent workers emigrating in search of employment. In these near-by colonies supply and demand are met without the necessity of resorting to the system of indenture.

[3] The act of Congress "To prohibit the coming into and regulate the residence within the United States, its territories and all territories under its jurisdiction and the District of Columbia of Chinese and persons of Chinese descent" was passed April 29, 1902. The act to regulate the registration of Chinese in the Philippines in conformity with this act was enacted by the Commission March 27, 1903.

[4] Governor Taft reports in 1901 the complaint of merchants in the Islands that the labor situation was acute and their determination to send representatives to the United States to ask an amendment to the extension of the exclusion law to the Islands on the ground that the Chinese were necessary for the business development of the country, a proceeding strongly resented by the Filipinos.—*Phil. Com. Report*, 1902, I, p. 21.

Straits and the Archipelago can fail to forsee the result if the Chinese are allowed to settle the labor problem of the Philippines in free competition with the natives while America keeps the peace.[5] There is no question as to which race is superior in stamina, in ability, or in ethnic endurance.

It is no reflection, therefore, upon the Chinese that we propose to protect the wards of our nation from gradual but inevitable extinction under a race pressure which the Malay would be powerless to resist in his present condition. Whether we are justified in this policy on economic grounds is a question which cannot be profitably debated here. Chinese labor if encouraged might rapidly transform the Islands and fill its waste places with an industrious population—but the people would no longer be Filipinos.[6] As a nation we have pledged ourselves to arrest, if we can, the operation of one of the laws of nature by withholding the overflow of a stronger stock into an easily accessible area occupied by a weaker. Were the peaceful penetration of the Chinese into the Philippines allowed to take its natural course there is hardly a doubt that another century or two would see the transformation of the people of the Islands into a mixed race bearing only a resemblance to the Filipinos of today and adding another group of perhaps thirty millions of resolute workers to the mass of yellow Asiatics.

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[5] As a combination of ignorance and vanity characteristic of certain educated Filipinos the following statement of Dr. Dominador Gomez before the Congressional party visiting the Philippines in 1905 is worth quoting. "I should like to state here clearly and plainly, in a manner that will not lend itself to future misinterpretation, that the laboring man, or rather that the Philippine Labor Union which represents thousands of laborers in the country, is not wholly opposed to Chinese immigration; they perfectly understand that a restricted Chinese immigration properly regulated by legislative enactment may benefit the country. The Filipino people are not ignorant of the fact that there is an immense wealth lying in our fields and forests which will remain there until, through labor, it is extracted and utilized. If the Filipino people desire to correspond to the grandeur and splendor which is represented by the American flag and American sovereignty in these Islands, it is their duty not only to develop and exploit the vast natural resources that lie in the soil of these fertile Islands but also to dig deep and search out its hidden treasures. However, we understand that morally and intellectually Chinese immigration cannot produce good morals and good customs in these Islands. The Chinaman even in his physical ailments is worse than the man of any other race; his diseases are extrapathological; that is to say, there is not found in any pathological work the diseases with which the Chinaman suffers, nor do we find the same diseases having as great severity among other peoples as they have among the Chinamen. We here in the Philippines do not desire the Chinaman as a mechanic or as a teacher; we desire him, and this I will say, though it may be an offensive phrase to them—we desire the Chinese here merely and purely as work animals for the cultivation of our fields."—*Hearings before the Secretary of War and the Congressional Party Accompanying Him.* Manila, 1905, p. 50.

[6] Mr. Foreman declares that "apart from the labor question, if the Chinese were allowed a free entry they would perpetuate the smartest pure Oriental mixed class in the Islands."—*The Philippine Islands*, 3d ed., p. 635.

The policy which the Spanish inaugurated in the hope of saving the souls, we have continued against the Chinese in our solicitude to save the bodies of the Philippine people. By checking the onslaught of Islam from the south and preventing the influx of Confucianist and Buddhist culture from the mainland the Spanish were fairly successful in preserving most of these Islands to Christianity; it remains to be seen whether we shall attain a like success in preserving them for their present inhabitants, but our altruistic principles commit us to the adventure.[7]

Proposals to bring Chinese labor under contract for specific work and limited periods, at the conclusion of which the workmen must be returned to their country, avoid the objections brought against free immigration while offering immediate relief to the scarcity of competent laborers. The testimony of various residents in the Philippines as to the Chinese, taken in 1900 by the commission, was unanimous on the subject of their intelligence and capacity for work, though most of the witnesses were bitterly hostile to them and seemed to agree as to their immorality, their clannishness, and other traits.[8] Complaints about the Chinese in the Philippines are quite similar to those heard in this country—he does not enter into the social organism, but remains, if left to his own devices, the trader, the middleman, the parasite of society. Nevertheless, the Chinese will work. At the beginning of our experiment in the Islands, when there seemed to be no prospect of inducing natives to undertake a steady job, thoughtful observers saw no other recourse than the Chinese. One of the fairest of these wrote in 1900:

[7] "If no restriction were placed upon their coming, Chinese blood might eventually take the place of the Malayan, and we might then have a Chinese dependency on our hands from which condition we might well seek deliverance. . . . The Chinese infusion, on the whole, turns out a sharp, intelligent, ambitious but untrustworthy individual. . . . . Natives unable to get along industrially with these people formed a dislike for them at the outset and seized every opportunity to show it. The rigid exclusion of the Chinese has been one of the articles in every revolutionary propaganda, and had it not been for the large revenues which the Spanish Government received from the Chinese, this hated class would have been at the least deported. . . . . The Chinese shows commendable adaptation in his promptness in procuring American tools and food products—just that sort of adaptation which the Filipino lacks."—Fred. W. Atkinson, *The Philippine Islands*. Boston, 1905, p. 259.

[8] *Phil. Com. Report*, 1901, II.

> The position of the Chinese in the industrial and agricultural life of the Islands is probably one of supreme importance. I am quite disposed to think that the industrial future here depends absolutely upon Chinese labor. I am coming to a belief that the future is hopeless without it. In a way the Filipino is wholly lazy and indolent. In another way he seems industrious. As one goes through the country and sees the Filipino at work in his rice fields and notes the endless amount of tedious work involved in the cultivation of those thousands and thousands of acres, when one notes the processes of plowing, planting, setting, weeding and gathering, and realizes the amount of labor represented and that a vast deal of it is Filipino labor, he can only wonder if this race is so very lazy after all. But rice culture does not involve that continuous, day-in-and-day-out, all-the-year-round labor to which the Filipino evidently has a rooted objection. The Filipinos are far from wholly idle. Even in this land some work is obligatory. Its people are not wholly exempt from the operation of that law which compels the exchange of perspiration for bread. But the labor of the native is desultory, the laborer improvident. The average Filipino has no special object in life beyond maintenance for himself and family from day to day. . . . . But the Chinese will work, and therefore is of much interest and concern for the prospective investor here. He is the laborer of the region and the only one. He will labor at anything and will usually do his work faithfully and well—at least, he can be made to if rightly handled. . . . . The native might be educated to it in a generation or two, but who is to pay for his education? John is the man, and there are enough of him to be had for all the farms, plantations and estates, for all the mills and factories that will ever be started in the Philippines. But if he be allowed to come here in great numbers the United States will probably stand in the position of an interested participant in a very lively race war between the Mongol and the descendant of the Malay.[9]

There is plenty of evidence to establish the fact that the quality of Chinese labor is superior to any other now available for the tropics. "Compared with the Chinese," says one American of experience in the Philippines,[10] "I should say off-hand that the Filipino is not and never will be anything like as good as the former; the Chinese are, without any question, the best common laborers in the world," and this appears to be the opinion of a great majority of those who know the Far East. They have endurance and persistence, they are adaptable; they have had at home centuries of experience in intensive cultivation, irrigation, fish and poultry raising and in mining. To the objections brought against them in the Philippines that they become shopkeepers instead of farmers it can be argued that in this they act as white men do when opportunity offers, and that this is simply a proof of superior thrift; when they are accused of a disposition to hold their footing and to oust the natives—another characteristic of a superior race—it seems to contradict the other charge often made against them that they cash in their earnings and leave the country without benefit from their accumulated capital. But such strictures, however well substantiated under free immigration, would not apply in the case of contract laborers picked for special undertakings and returned to China without permission to settle in the Islands. It cannot be denied that the Filipino is not developing the enormous and untouched areas of his own country, and that if left alone he never will; an adequate supply of efficient labor promptly brought over to begin the great enterprises now awaiting the onset of ready hands would decidedly increase the material prosperity of the Philippines. From the revenue derived out of new values thus created the whole cost of sanitation and education could be paid within a few years, and the Filipinos of the coming generation be prepared by the industry of the *Chinos* for their task of government temporarily withdrawn from them.

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[9] Albert G. Robinson, *The Philippines, the War and the People*. New York, 1901, p. 389.

[10] Mr. C. R. Welch, of New York, in a letter of November 28, 1913.

The picture is an attractive one, especially to the theorist and the amateur statesman, but, though a carefully conceived law might secure many of these benefits immediately, the fundamental objections to such legislation are moral and political rather than economic. Race antagonism prevents our employing Chinese in the Islands on any terms. No transient advantages secured in relieving the labor situation could counterbalance a dislike so intense on the part of the natives that they refuse to work with or learn from their more industrious rivals. If brought to the Philippines under the restrictions suggested the presence of Chinese would only tend to delay the instruction of the Filipinos in habits of industry by abating if not removing the stern discipline of necessary toil; it would also involve a repudiation of the moral obligation implied in our denial of the right of a state to selfishly exploit a dependency; it would generate a hatred of the Americans who forced them upon the country, and thereby enormously increase the political complications of our occupation and postpone the date of our withdrawal.

The conclusion reached by this scrutiny of outside sources of labor reveals the fact that for political and other reasons there are no suitable means at our disposal for the development of the Philippines except by their own people. If they can be taught to become steadily industrious the problem of their future is assured so long, at least, as some powerful nation like ourselves is able and willing to preserve them from foreign conquest and from relapsing into disunion and the tyranny of cacique control. If not, our experiment in nation building is doomed to failure. One other region in modern times that can be compared in area and climate to the Philippines group has been subjected to a *coup d'essai* of a similar sort—that is Java.[11] Before examining the material results thus far obtained from our incumbency in the Philippines it is desirable to inquire if the experience of the Dutch may be profitably applied to our problem.

Though long controlled by the Netherlands Java has only been exploited on an economic plan for about a century. As to the basis of Dutch rule the contrast between the Hollander and the Anglo-Saxon is admirably epitomized by a visiting Englishman, Mr. Henry Scott Boys. He says:

> The Dutch do not profess to study the well-being of their Javan subjects, save as an object secondary to their own advantage. England expends the whole of her enormous revenue in India and sends not a rupee westward, save for goods purchased, while Holland receives ordinarily from Java, as pure tribute, more than one-third of her colony's income. Holland of set purpose keeps its Eastern subjects as stupid and ignorant as possible. We are scrupulously exact in all our dealings with the natives, insisting on a full wage being paid for all work done, and checking, by all the means in our power, the tendency of all natives in authority to compel labor, while the Dutch have no hesitation in utilizing to the full this tendency and practically draw from this source a large portion of their revenue. The English protect all rights in land however shadowy they may be, and confer others; the Dutch admit no such rights and studiously avoid the introduction of the proprietary principle. We persist in impressing on the native mind that the Western and the Oriental, the heir of Europe's civilization and the successor to Eastern conservatism, are all equal and equally fitted for, and capable of, understanding and of profiting by those social institutions and forms of government to which we ourselves are so attached: the Dutch frankly deny the equality and ridicule the notion that all the world should be ruled on the same principle.[12]

The famous "culture-system" of Daendals and Van den Bosch was based upon the patriarchal character of the native institutions, apportioning work on village plantations under local chiefs, and providing European contractors with labor under regulations that protected the cultivators from force and the employer from fraud. The system had obvious advantages to the island over the lethargy and internecine conflicts which prevailed before it was applied. The population increased from six millions to thirty millions during the century and yielded for many years an enormous surplus to Holland, but the rigor of the system has been abated since 1871 and during the past forty years there has been almost invariably a yearly deficit. Perhaps the best that can be said for the culture system is that while it violated almost every economic law it taught a listless people the lesson of regular work, while protecting them from their hereditary chieftains, from other invaders and from Chinese immigration. An easy-going people living in a luxuriant land under a beneficent climate have been able to endure and survive the severity of their masterful but calculating rulers. Their material prosperity is incomparably greater than it was under Mohammedan domination, and the peasants are not unhappy, but they have been denied their rightful heritage and screened from harm, like domesticated animals only for the benefit of their employers.

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[11] The British tropical colonies have been exploited by imported labor wherever the metropole has asserted complete control; those of France, Germany and Japan are too recent to offer satisfactory results for comparison. Other nations have done practically nothing.

[12] *Some Notes on Java.* Allahabad, 1892.

In climate, area and race Luzon offers a counterpart to the great southern island of the archipelago; it is not illogical, therefore, to infer that what can be done in the one can be done in the other. Americans will not imitate the Dutch in their principles or their methods, because their training at home has led them to evolve a different political philosophy, but the importance of this comparison lies in one result of Dutch colonization; they have proved that a tropical people can be made to work out their own economic salvation, while the improvement during the process in their safety and happiness is shown by an amazing increase in population. Here is an object lesson which has received suprisingly little attention considering the significant relation of its great truth to the problem before us. It is an answer to the question continually recurring in all the recent literature upon the Philippines. If the Dutch have succeeded by one method it remains for us to show that success can be attained by another which shall not only develop an industrious people in the tropics but so educate them that they will be able ultimately to maintain their independence. Incidentally, this statement of the problem reveals the futility of expecting this double purpose to be attained in a single generation. Holland has spent a century in teaching her Javanese how to develop their plantations under a patriarchal control; are we likely to teach the Filipinos the more difficult lesson of developing a self-sustaining nation in addition to supplying their own physical needs in a much shorter period?

In one important respect the business before us has been lightened by the work of the Spanish priests. They failed lamentably indeed in their instruction as measured by any high standard, but they saved a majority of the people from the blight of Islam and they prepared them for an understanding of Christian institutions by converting the greater part of them to Christianity. Baneful as it was we cannot justly ignore the result of two centuries of Spanish occupation. On the other hand it must be confessed that the deplorable laxity and injustice of Spanish rule bred vicious propensities in some of their converts from which the sturdy pagans, like the Igorots, who successfully resisted Christianity, are free. Of these propensities we need consider only one—the slothfulness of the natives—because it alone can be made to account for the backward condition of the Islands. The *Philippine Commission Reports*, from the beginning of the series, revert to the melancholy exhibition of this national trait, which to the energetic army officers who first took the natives in hand appeared to be at once the insuperable objection and the unpardonable sin that stood between the native and his chance of redemption. We read in 1901:

> They care naught for the morrow nor for leaving to their children and their heirs the means for enjoying a happy future. While there are honorable and frequent exceptions increasing in number every day, it is none the less a fact that in general they refuse to eat bread won by the sweat of the brow, and this in spite of the fact that it is to agriculture the Filipinos owe all there is of value in the general traffic of the Islands.[13]

Attempts to carry on the construction of the famous Benguet road were at first desperately discouraging and nearly drove the engineer to madness. He reports in 1902:

> I cannot bring it too strongly to your attention that as a laborer the Filipino is a flat, absolute failure, a man of no energy and less judgment, ignorant, sly, deceitful and lazy, working only because he is forced to do so, caring nothing for the money he gets at the end of the week. He wearily drags through the six days of his martyrdom, and then with a greater alertness than he has exhibited for a whole week sets his face homeward and is seen no more.[14]

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[13] *Phil. Com. Report*, 1901, iv, p. 6.

[14] *Phil. Com. Report*, 1902, i, p. 145, Report of N. M. Holmes.

In 1903 he writes that

> After three years' constant observation of the Filipino as a laborer I have been unable to discover that chord to his nature which if played upon would excite within him an interest in his work and cause him to apply himself with diligence and intelligence to its performance. The most deplorable quality in the native as a laborer is his absolute and utter indifference to any work to which he may be assigned. . . . . Although much time and pains have been taken to teach the native proper methods of work his efficiency is, if anything, less today than two years ago, for he seems of late to have attained a certain independence of spirit whereby he refuses to work at any price, while in previous times he would do so, stubbornly and unwillingly though it might be. . . . . The general average of a Filipino laborer is from one-fifth to one-tenth that of an ordinary white laborer's work in America. It is noticeable that a white man's efficiency in this climate does not reach higher than two-thirds that of the ordinary white laborer in America. . . . . The Filipino has proved himself to be more expensive than white labor and one might say practically valueless. There is, moreover, a spirit of maliciousness prevailing among these people, leading them to commit many overt acts such as thefts, assaults and willful destruction of property.[15]

This was discouraging, but in the light of later experience we realize that American officers were ordered to undertake operations without sufficient study of their nature, and the results were necessarily disappointing. In our hurry to begin we did not stop to read even the scant literature upon the Islands, from which at least some information of value might have been gleaned. The German ethnologist, Blumentritt, who visited the Philippines from 1882 to 1896, had already recorded his opinion that the indolence of the natives was due not to their free choice but because the Spaniards had crushed out all desire to work. He continues:

> Dr. Rizal assured me that his people are industrious workers if they may hope for sure profits. This was not the case under the Spanish régime because the monks and officials exercised a very partial mastery, so that it was difficult for the poor to compete with their rich favorites. . . . . Germans who have lived both in Japan and the Philippines assert that the Filipino is the equal of the Japanese in many respects, and far his superior in sense of honesty and justice.[16]

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[15] *Phil. Com. Report*, 1905, iii, pp. 390 ff.

[16] F. Blumentritt, *The Philippines, a Summary Account*, translated by D. J. Doherty. Chicago, 1900, pp. 27 ff.

Some appreciation of the Filipino's experience with government labor and of his state of mind when ordered to do his share of a job under military superintendence might have modified the accepted verdict that the native was "no good," Much credit is due to Governor Taft for the change which gradually transpires in the documentary evidence upon the subject, though his optimism seemed at first to be discredited by recurring instances of the unfitness of Filipino employes. The evidence, he declares, is conflicting; but if the Benguet road was discouraging the Manila Railway Company told him that their line had been constructed entirely by natives, and that Chinese labor on that operation had proved unsatisfactory. He argues with a wisdom long since justified,

> I myself am by no means convinced that Filipino labor may not be rendered quite useful. The conditions of war and of disturbance throughout the Islands for six years have led the men to form loafing and gambling habits, and have interfered with their regular life of industry. Where such restlessness prevails industry is apt to be absent. The Filipino laborers must be given three or four years before an intelligent and just verdict can be pronounced upon their capacity for effective labor. I am confident that it will be greatly better than the suffering merchants of Manila anticipate. A just view of the future of labor in these Islands cannot be taken without considering the dependent condition of the Filipino laborers in Spanish times. Much of the labor was then forced, and there was not a single circumstance that gave dignity to it. The transition from such conditions to one where the only motive is gain must necessarily be attended with difficulty; but when the laborer shall come to appreciate his independence, when he shall know that his labor is not to be a badge of peonage and slavery, when American influences shall make him understand the dignity and importance attaching to labor under a free government, we may expect a great change for the better in the supply and character of labor.[17]

In the spirit evinced by these expectations efforts were made to encourage the Filipinos to accept employment wherever the army and the government could engage them. At first all labor in the transportation department at Manila was secured through patrones or bosses and paid by the day. Captain Butt, the quartermaster in charge of this affair, soon discovered that the system involved the payment of so large a share of their wages to the patrones as to discourage the workmen from returning to their task. But the bosses had so firm a hold on the labor market that they were hard to displace. He could say, however, in 1902 that

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[17] *Phil. Com. Report,* 1902, i, p. 24.

> A continuous warfare on this system of an anterior date has now resulted in a complete alienation of patrone and laborer as far as this department is concerned. The Filipino has become thoroughly convinced that not only is he independent of the patrone, but to be subservient to him is contrary to his own interests. I believe this was largely brought about by paying for the labor first once a week, then twice a month, and later on monthly.[18]

Judicious treatment and some attention to fitting laborers for special work soon began to show results in the hopeful accounts from other officers confronted with the same problem. The Commandant of the Navy Yard at Cavite reports in 1903 that

> While comparison between Filipino labor and that of Chinamen and others is futile because of the many variable quantities that have different values according to one's point of view, there is no doubt in my own mind that Filipino labor will prove more satisfactory at this station than any foreign labor, and that in the trades it will be satisfactory; that its employment will be of great value to all the people of the province, and indirectly to other parts of the Islands, in educating them to see the advantages of stability and quiet and the opportunities for permanent betterment of their own and their children's lives.[19]

On his return to the islands in 1908 Mr. Taft was able to note the improvement in the labor situation and "the eagerness with which the common Filipino laborer sends his children to school." He adds,

> The Philippine labor has shown itself capable of instruction, and by proper treatment of being made constant in its application. Of course the prices of labor have largely increased, but the companies constructing the roads have found it wise to increase wages and thereby secure efficiency. Even with increased wages the cost of unit of result is less in the Philippines in the construction of railways than it is in the United States. . . . . I think the lesson from the construction of railways is that Philippine labor can be improved by instruction and can be made effective and reasonably economical by proper treatment.[20]

[18] *Phil. Com. Report,* 1902, i, p. 171.

[19] A. R. Condon, Commandant, in *Phil. Com. Report,* 1903, i, p. 393. But the chief civil engineer, J. T. Norton, in a report on the plan for Luzon railroads, insists at the same time that "there is no possibility of building the proposed lines of railway or any of them within a reasonable length of time except by the importation of Chinese or other foreign labor." *Ib.*, p. 404.

[20] *Taft Commission Special Report to the President,* 1908, p. 66.

As experience has improved by longer contact with the people the discoveries of science have enabled us not only to ameliorate their condition but to detect hitherto unsuspected sources of disability. "The Filipino," observes one of the shrewdest American writers on the Philippines, "are both aided and handicapped by receiving not only their government but their civilization ready-made."[21] The dangers of a too rapid ferment involved in the transformation of the body politic from this bestowal are serious and palpable, but there can be no question of the advantages derived from the application of hygenic knowlege to their well-being. Neither climate nor Spanish misrule can be exclusively blamed for Filipino incompetence. The people everywhere suffer, usually unconsciously, from a plague common in warm countries which has only recently been discovered by science. The commission report in 1909 that

> It is an indisputable fact that a very large proportion of the Philippine people are unable, either for lack of proper nourishment or on account of the existence within their systems of intestinal parasites or other diseases, to do an able-bodied man's work. Attention is called to the investigations recently carried out under the auspices of the bureau of health, the bureau of science, and the Philippine Medical School, in the town of Taytay, with the result that almost every person examined was found to harbor intestinal parasites of one or more kinds, and very much more than half of the persons had more than one variety.[22]

Scientific care has already eradicated some diseases like small-pox and cholera which were formerly endemic in the Islands, and the effect of these measures is notable upon the statistics of mortality, but such ills as malaria and the hook worm do not yield readily to treatment which can be easily applied. They contribute, however, one of the neglected causes of that prevailing indolence so generally deplored by western writers. Provident employers have already stopped berating the languid native and turned their attention to choosing workmen who are physically fit for toil. One of this class writes:

> We do not let any laborers go down to Mindoro now, until they have passed a rigid medical examination, and we find a large percentage of the applicants for work ought to be in the hospital instead of trying to earn their living; it is simply impossible for such people to be efficient. A great deal has been accomplished in certain sections of the Islands in

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[21] Mary H. Fee, *A Woman's Impressions of the Philippines.* Chicago, 1910, p. 134.

[22] *Phil. Com. Report,* 1909, p. 43.

improving sanitary conditions, but an enormous work still remains to be done.[23]

Better nourishment and higher standards of social welfare will certainly reinforce the efforts of the health officer as the Islands develop in prosperity and the natives learn to satisfy their new-found desires from the wages of honest labor.

The various islands of the Philippine group divide the population very unequally. So long as communication between them was infrequent and difficult the common people seldom ventured away from their own villages, and Spanish policy rather encouraged a disposition to aloofness that rendered natives of different tribes and districts less liable to unite in uprisings against their rulers. Conservatism and timidity have been the natural result of this combination of physical and political causes, and to overcome them extra inducements have to be offered before the laborer can be got away from home. In the thickly populated Cebu five thousand men were gathered to dig the railroad bed at 25 cents per diem, but the same men could with difficulty be persuaded to do the same work in Panay, a hundred and fifty miles away, for the same pay with their keep included. But, though this is a common experience today all over the Islands, it is an obstacle that will disappear with increasing intelligence. An American familiar with the country writes:

> When labor is required in such places, it simply means more money and more work to get a force, but I never heard of any work being permanently stopped for want of labor. I have heard a number of planters complain of lack of labor, but upon close questioning you generally find that they want to go back to the semi-slavery days, which of course is impossible. If planters would pay well and provide decent living quarters, schools, markets, etc., I have no doubt they could get all the labor they need.[24]

The homesickness which renders a simple folk, unaccustomed to roam, miserable without their families, is easily overcome by transporting households to join the workmen in remote places—not a formidable operation in the Philippines.

A systematic effort to improve the mobility of labor was begun in the creation of a bureau of labor in 1908, and the equipment of free employment agencies in Manila and Iloilo, partly to induce laborers to leave over-populated islands for those where the people are less numerous and the wages higher. The results thus far have not been encouraging, "as the Filipino laborer seems to prefer discomfort in the place where he was born to comfort in a neighboring island within sight of his home."[25] But the best proof that the Filipino can be tempted abroad is the experiment of the Hawaiian Sugar Planters Association, begun in 1910, of recruiting their plantation hands in the Philippines. "For $18 per month of twenty-six days and transportation both ways with their families the Filipinos readily accept contracts of five years and seem to be satisfied with their engagement and earnings."[26] There are now about 13,000 of them in the Hawaiian Islands, 8,216 of whom are employed on sugar plantations; 2200 of these are contractors and planters, being second in numbers to the Japanese among the nationalities who do this kind of work.[27] These Filipinos have earned unpleasant notoriety for the frequency with which they appear in court, 1318 convictions against them being recorded in 1912. An analysis of the record shows, however, that most of the offences were not heinous and that many were due to ignorance of the law. A Honolulu newspaper says:

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[23] Mr. C. R. Welch, in letter of November 28, 1913.

[24] Mr. C. H. Farnham, in letter of December 1, 1913.

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[25] *Phil. Com. Report*, 1910, p. 130.

[26] *Phil. Com. Report*, 1911, p. 128. The wage now given is $20 per month.

[27] The following extracts from the *Report of the Bureau of Labor and Statistics of the Hawaiian Sugar Planters' Association* for November, 1913, are of interest. "During this year the Association brought in a total of 4178 Filipinos. Departures from the Territory for the same period were 480. An examination of the returns of the plantations shows that Filipinos are as a whole performing fairly satisfactory labor. The reports for the month of August, 1913, show that on 17 plantations the Filipinos worked on an average less than 18 days; on 8 plantations they worked between 18 and 19 days; and on 20 plantations they worked 20 days and over. They work as many days per month, or a trifle better, in this respect, than the Koreans. They do not do as well as the Japanese or Portuguese, but it must be borne in mind that many of them are new arrivals and unaccustomed to performing hard work steadily. An encouraging feature is the disposition shown on their part to take up contracts. The number of Filipino contractors is increasing steadily.

"Thus far there has been no widespread movement on the part of Filipinos to leave the plantations and go to California. Their love of home draws them that way when they have saved sufficient money to make the trip, but 150 men, 4 women and 7 children went to the Coast during the year. This should be very carefully watched and every effort made to discourage the people going that way. A few went to the Coast and wrote back glowing reports to their friends on the plantations, with the result that, within a comparatively short time, there was a wholesale migration when the Japanese exodus to California started in about the same manner.

"Filipino emigration is in a very satisfactory condition. We are able to meet all requirements and as a matter of fact have had to crowd some of the plantations."

The fact that the Hawaiian Islands are an integral part of the United States renders the movement of Filipino laborers and residents to that Territory especially interesting. When they learn the profits to be earned by even the simplest out-door work they are certain to develop a larger ambition in the sale of their skilled labor and assist us as they assist themselves in the development of all the regions under our common flag where they are readily acclimated.

> While it is not denied that there are criminals and loafers among them, the figures show that the vast majority who have come to Hawaii, unaccustomed to our methods of work and our social conditions, have become industrious and law-abiding, and a sense of justice should not fasten on these the responsibility for the deeds of the evil-doers.[28]

Whatever may be argued from this rather unseemly phase of Filipino character the fact itself, that there are so many of them at work abroad, is sufficiently striking when we recall the dejected engineer of the Benguet road thirteen years ago. Progress in the attempt to solve the labor problem has been both satisfactory and rapid. The native displays the same desire to improve his condition that is found in every civilized country. He can do coarse labor, when properly treated, in his own country and abroad, in competition with Chinese and Japanese, but he is better fitted by nature for factory and artizan work. Mr. Farnham writes:

> I went to the Philippines in 1901, and during that year and 1902 I had the direction of several hundred Filipino laborers on road and street construction; from 1906 to 1910 I had charge of large forces of Filipinos on railroad construction, and I can truly say that during this period of nearly ten years there has been a great development of labor, especially in the skilled trades. In 1901 there were very few Filipinos who were carpenters, masons, blacksmiths, etc., but in 1910 there were thousands who were fair workmen in these various trades. This improvement has come about through the employment of thousands on the various public works, railroads and other enterprises. At first, on all of this work, American, Chinese and other foreigners were employed in positions requiring skill and experience, and often the men employed were unreliable, so managers and superintendents of the various works were driven to the training of a force of Filipinos to do the work. . . . . Thus there has been built up during the past ten years a considerable body of Filipino skilled labor. This practical training, which has come about through the law of necessity, has been at the same time supplemented by the trades schools of the educational department and the practical training carried on by the government in many of its departments, one of the greatest of which is the bureau of printing at Manila. From all this it may be seen that there has been a great advance in the skilled trades and a considerable gain by the Filipino people of useful and practical knowledge.[29]

[28] *Pacific Commercial Advertiser*, June 26, 1913.

[29] Letter of December 1, 1913.

That characteristic American trait of idealism to which reference was made in the beginning of this paper is responsible for the determination at the outset to give every child in the Philippines an education. Our devotion to this one feature in the management of a dependency is the natural result of our experience at home, and the attention given to it contrasts rather significantly with the colonial policies of Holland and even of Great Britain. We may here dismiss all questions of morals and duty and confine ourselves to answering the objection often raised against an educated labor class—that wherever people are educated they refuse to perform manual labor. Society has nowhere authoritatively answered this objection. It is true that the only work illiterates in every community can expect to get is work with their hands, but where there are practically no illiterates and no immigration, as in Switzerland, work is still done. It would appear that while regular and necessary employment is the best school for a whole people, there is no reason why children before entering that school should not have the stimulus and advantage of elementary and theoretical instruction. It is not the education of a whole people, but of a particular class by itself which creates an aristocracy. While education is the possession of only a few these will naturally seek positions in offices and pose as aristocrats in fine clothing. The surest check to this in the Philippines is the avidity with which every father desires instruction for his children. When all are educated there will be no reason for one man to think himself better than another, and everyone then as now will have to work or starve. It is impossible to venture further upon a discussion of a mere speculation. We are determined to raise the standard of living and encourage progress generally for the benefit of a whole people; this cannot be done without education. The old idea that education freed a man from physical labor must be overcome by examples of material rewards which skilful labor may bring. The Philippine government in recognition of this is affording greater opportunities than ever before for vocational instruction in public schools. More than half of the 500,000 Filipino youths at school are now enrolled in industrial courses, "and the opportunities afforded generally for this important instruction compare favorably with opportunities for such education in the United States."[30] It may be an old-fashioned idea, but thoughtful Americans still seek the remedy for poverty in raising the standards of desire and living among the poor. If it ruins the labor market for a time and even encourages revolution by increasing discontent we are willing, we think, to risk it if the ambition of the people can be strengthened. Neither the paternalism which provides land and labor nor the legislative philanthropy which assists the unfortunate is of much avail unless men are stirred to exercise their own will power.

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[30] *Phil. Com. Report,* 1912, p. 20.

So far as the labor problem in the Philippines admits of a solution the facts before us and the experience thus far gained would seem to warrant our holding to the policy thus far pursued. That policy, as has been indicated, is founded upon principles so deeply implanted in the sentiment of the American people that no political party would venture to incur the risk of seeming to contravene them. Our venture in the East is derided by some and deplored by others, and there is no way as yet of justifying either its opponents or its friends. But while we continue the venture the difficulties and responsibilities must be assumed and our duty done regardless of our personal prejudices, with an eye single only to our national honor. We have the advantage of other countries whose experience we are able to consider to our profit while recognizing the impossibility of departing from our theory of occupation in accepting some of their methods. A greater advantage accrues from the scientific knowledge of the age which admits of applying plans of relief and education undreamed of a century ago. By reason of these advantages and a just and equitable procedure we entertain the reasonable hope that after a period of expert control not excessively prolonged we may leave inhabitants of the Philippines in a position to govern and defend themselves. Unless they can do both of these things they will constitute a danger to the peace of the world.

The introduction of any considerable number of foreign laborers into the country is likely to be attended with such inconvenience or danger to its ultimate welfare that we are disposed to avoid such a step even at the risk of delaying the development of its natural resources. From this brief examination of the factors involved in the problem the obvious conclusion seems to justify the American policy of a common-school education for all classes alike. Such a thing has never before been tried in any oriental country except Japan, and there its results are already sufficiently notable to be encouraging. With the spread of education the ignorance and conservatism of the past will disappear; with the change may come other evils we know not of, but from our acquaintance with the social problem elsewhere we are bound to believe that the perils of divine discontent in an intelligent populace are less than the dangers of illiteracy. Education is necessary for a people who have to turn their hands to all the varied uses to which labor can be put, whatever may be said for the restricted occupations allowed by the Dutch for their agricultural subjects in Java. If we wish to train them, not only for their plantations but for life, we must assume the responsibility we have taken of training them as we train our own children at home. When this is accomplished they will realize, as they do not now, that the fundamental lesson of civilization is the lesson of labor usefully applied.

LEGISLATIVE PROCEDURE IN TWO ANGLO SAXON COUNTRIES

BY A. MAURICE LOW, M.A.
Washington, D. C.

About the time a few years ago that a great outcry went up from members of the house of representatives and the country at large against Cannonism and the autocracy of the speaker of the house of representatives, great was the lamentation of the private member of the house of commons. In the United States representatives complained that they were deprived of all power because of the unlimited power usurped by the speaker. In England the complaint was directed not against the speaker—whose functions are those of a presiding officer, and who exercises them with judicial impartiality—but against the government, as we use that term in England, that is the prime minister and his colleagues of the cabinet. The "private member," I may explain, is a member who holds no office under the government nor has ever held any. He constitutes the rank and file.

It was the grievance of the private member that although he was elected to take part in legislating for his country, actually he was of less consequence in the legislative machine than the clerks at the table. If he was a party man he followed the party leaders and voted when and how they directed. If he was in opposition his only free privilege was to vote against the government. He might at times make a speech. If he had rare luck he might introduce a bill, although for all practical results that was as futile as trying to measure the ocean with his hands.

His *confrère* across the Atlantic, with much greater freedom of action, was forced to content himself with being a legislative cipher. He was permitted to introduce bills only to see them slain by chairmen of committees appointed by the speaker, or done to death by the speaker, whose symbol of authority many members believed should more appropriately be the axe rather than the mace. If he wanted to exercise the inalienable right of a freeman and talk, his lips were closed by a satanic invention called a "rule," which it was always in the power of the speaker to produce, or he was silenced by other technical and subtle devices. All that was permitted to him was to vote; to vote straight and as a good party man support measures having the party sanction, and to vote against them if he was in opposition.

It is curious and of more than ordinary interest to the student of national psychology to observe how intimate is the intellectual relation existing between the two great branches of the English speaking race. The protest of the American member of congress against legislative tyranny finds its echo in England. When the English member rebels against autocratic power he repeats in almost identical language the indignation of the American member. The woes of the Mother of Parliaments are the tribulations of her oldest daughter.

Alike in so many things that the family resemblance is unmistakable, with a common language, common traditions and common institutions to make the two peoples think and act the same, the impulse of thought in one country finds its reflex in the other up to a certain point, and then, not infrequently, there is a sharp divergence, which shows in marked degree the difference between the English and American temperament. Never was this more clearly seen than at the time I speak of.

In both countries it is recognized that government is carried on by party majority. Under the parliamentary systems of both countries there must be a majority in the lower house, that majority must be held to responsibility, and it must have the power to translate a legislative program into statute. It is to be assumed that when the country gives to a party a majority it is with the purpose to see the power of the majority made effective.

Now I shall not attempt to say that in England we are greater partisans than you are in America and that we make less attempt to conceal our partisanship, but the truth must be said that the outcry that was raised against "Cannonism" was largely the terror of cowardice—not the cowardice of the opponents of Cannonism, they at least had the courage of their imperfections—but the cowardice of its supporters, who apologized for being partisans and in a half hearted way attempted the always impossible task of being partisan and pretending to be non-partisan, while profiting by partisanship. In America the private member revolted and won; in England the private member protested and submitted to the system.

Seemingly, then, the advantage is with the American, but I am not at all sure that anything has been gained. The objection to Mr. Cannon and a system that was sanctioned by custom and tradition, was not that the speaker of the house of representatives had been unfair in his rulings, or had violated the parliamentary code, or had denied the minority rights that properly belonged to them, but that he attempted to carry out the wishes of a majority of his party. He was charged with the crime of being a party man and executing the party policy. The agitation would not have reached the proportions it did had Mr. Cannon's party courageously met the issue and boldly announced that the machinery of the house must be in the hands of the Republicans so long as the Republicans were in a majority in the house. Instead of which it offered weak excuses. When an individual or a party attempts to defend itself by offering excuses it usually convicts itself of the accusation.

In England we know only one party—and that is the party of the majority. Theoretically the minority exists: so far as it is able to influence legislation it has no existence. We believe in a centralized government and one man power, and we put the whole party in the hands of a single man.

When the country has voted a party into power its leader becomes prime minister. He is not elected prime minister by a party vote or designated by a caucus. He does not seize leadership nor gain it as a result of a cabal. He comes to the premiership because he is recognized as the man better fitted than all others to captain his party, and usually he has served a long apprenticeship and given proof of his ability and qualifications. There is never, or at least very rarely, any doubt as to who will be premier when the opposition comes in. There is no opportunity for a surprise. The dark horse is unknown in the terminology of English politicians.

The government of England is in fiction the sovereign and the parliament, the lords spiritual and temporal, and the commons; actually it is the cabinet. In the selection of his cabinet the prime minister has the same freedom as the President of the United States, and both are governed by political considerations and expediency. But the prime minister has this advantage over the President. British cabinet ministers are always members of the house of commons of long service and high standing, the prime minister knows them from having been intimately associated with them, and they know the house and its traditions and the members and their idiosyncrasies. It would be impossible for a member serving his first term in the house to be made a member of the cabinet; and one cannot imagine a prime minister putting a stranger in his cabinet, knowing him only casually by reputation, and meeting him for the first time when he made the tender of the portfolio, as has happened more than once under similar circumstances in American politics. It is no doubt an advantage to the premier to know and thoroughly understand the men on whom he must rely, and it must, I am sure, result in closer team work.

The prime minister is an autocrat. The policy of the government is determined by the cabinet, and the policy of the cabinet is determined by the premier. When a member of the cabinet disagrees with his chief the solution is resignation, but it is not the resignation of the prime minister. So long as the premier holds his majority in the house his power is absolute.

Experience has so often demonstrated the folly of divided responsibility that in England we long ago abandoned it in favor of centralized authority. A government in which no one man is supreme is in as great a danger from shipwreck as a vessel where every man may give orders and no one feels compelled to obey. The members of the majority party in the house of commons are like the rank and file of an army, they are there to execute the orders given them, but not to be strategists on their own account or to experiment with their own tactical ideas. They are not consulted about legislation because it is taken for granted they will give their support to the legislative program of the government as outlined at the beginning of the session in the brief speech from the throne. A wise prime minister will of course endeavor to do nothing to antagonize his party, nor will he propose measures that do not have the full party support. If he does he risks defection and the loss of office.

Now while the system places very great power in the hands of the prime minister and the cabinet it reduces the private member to very small proportions, and of course the private member is enormously in the majority, as the cabinet usually consists of not more than a dozen men, the British cabinet, I may add, being a flexible body and not as here unchangeable. No private member can introduce a bill by simply dropping it in a box at the clerk's desk so as to make his constituents believe he is the father of legislation; and no bill can be passed unless it is a government measure or has the sanction of the government. A private member, whether in the majority or in opposition, can make a speech under certain narrow restrictions, but he can not speak simply to obstruct the legitimate work of the house. Closure—the guillotine as it is technically called—is freely used, and when time grows short and members talk solely for the purpose of delay the blade falls. The right is conceded to the government to manage the affairs of the house in its own way. It is not necessary for me to go into details. It is sufficient to say that government business is given precedence and can not be obstructed by non-official members or by the opposition. One has only to read rule 42 of the *Manual of Procedure of the House of Commons* to see how drastic this control is. Here is the rule:

> Government Business has precedence at every sitting except the evening sittings on Tuesday and Wednesday and the sittings on Friday; after Easter government business has precedence at the evening sittings on Tuesday; after Whitsuntide, until Michaelmas, government business has precedence at all evening sittings, and at all Friday sittings except the sittings on the third and fourth Fridays after Whit Sunday.

Not much consideration, it will be seen, is given to the private member.

Compare this with the freedom of the American representatives. In the day when Cannonism flourished most luxuriantly there was a committee on rules, which, in a much restricted sense, corresponded to the "government" in England. The committee on rules, decided the measures to come before the house, the length of debate, and when the vote was to be taken. This committee consisted of five members, the speaker and two of his party colleagues and two members representing the opposition, all of them appointed by the speaker, who was the chairman of the committee. When the minority attempted to delay or obstruct a party measure the speaker and his two associates met in private and adopted a rule which prescribed the day and exact hour the vote should be taken. They then called in the minority members of the committee and submitted to them, as a matter of form, the rule which, as a matter of course, they opposed, but as they were in the minority their opposition was futile, and the rule was adopted by the committee. It was then laid before the house, and if it was approved by the majority, which it almost invariably was because it represented the sentiment of the majority, it was adopted and further obstruction was impossible. Whereupon the complaint was made by the minority that they had been robbed of their rights by an autocratic speaker, they had been deprived of free speech and given no opportunity to debate the bill.

Was there any justification for this complaint? I think not. I have already shown that not only is the opposition given no part in shaping legislation in the house of commons but the member of the majority party who is not in the government is afforded no greater opportunity. Republicans do not expect to be given representation in a Democratic cabinet so as to obstruct Democratic measures. Why should they? They are not held responsible for legislation. It is the majority on whom the odium must fall if their legislation is vicious or dishonest.

But the country clamored for reform, not that the country knew anything about the question or had any clear ideas on the subject, but what the country wants it generally gets, and the rules of the house of representatives were reformed. On March 19, 1910, the house adopted a resolution abolishing the old committee on rules and substituting for it a new committee consisting of ten members, six of the majority and four of the minority (the committee has since been enlarged to eleven members) to be elected by the house instead of being appointed by the speaker, and declared the speaker ineligible for membership on the committee. Now observe what has happened. Instead of the speaker and his two colleagues meeting, the six majority members meet in private and after agreeing to a rule submit it to the four minority members of the committee. This is the triumph of reform. The rights of the minority have been won by substituting four-tenths for two-fifths! With such trumpery toys does reform distract that overgrown baby, the public.

In our efforts to protect the rights of the minority have we not become maudlin and allowed calm judgment to be subverted by sentiment? Have the minority any rights that a majority must respect? That may seem a startling proposition, and yet I advance it seriously. I do not of course mean rights in their broadest sense—life, liberty and the pursuit of happiness among other things—but I do mean the right of a minority to prevent a majority from exercising its legislative will. Power to legislate in a free country comes from the people, who by their choice expressed at the polls show their faith in one political party and express their disapproval of the other. This is a mandate to carry into effect certain policies that the majority have advocated and the minority have opposed. So long as this grant of authority is valid the sole responsibility rests with the majority. The people, it is to be presumed, have acted with deliberation and intelligence, their purpose has been to tie the hands of the minority, and for good or evil to render the minority impotent so long as the power of the majority remains unrevoked. This sovereign right of the people to determine the choice of its governors ought not to be nullified by technicalities or lax rules or cowardice pandering to the demagogue masquerading as the reformer.

It will no doubt be said if the minority has power neither to obstruct nor to threaten defeat the majority will grow arrogant, corrupt, indifferent to the public welfare, but those are fears imaginary rather than real. A party that is so stupid as to be dishonest, and so dishonest that it becomes stupid soon loses the confidence of the public. In this country the tenure of office is so brief that the people can always apply the remedy.

If the people are content to keep a corrupt or inefficient majority in power they have only themselves to blame.

But as a matter of fact, the more you strengthen the majority and the greater the power of the minority is weakened, the more efficiency is increased. The more the dominant party as a whole, and every member constituting it, feels responsibility the greater will be the sense of party and individual obligation and the duty every man owes to render the highest service. The minority will always be a watchful critic. It will make speeches exposing the folly or wickedness of the majority. That is as it should be, and that is the only function of the minority. It should be an exasperation to the majority. It ought by constant irritation to make it more efficient. But no minority should possess the power to prevent a majority from legislating—wisely if it is a party governed by wisdom, or destroying itself by its own folly if it has not the wisdom to save itself from destruction.

THE CORRELATION OF THE ORGANIZATION OF CONGRESS WITH THAT OF THE EXECUTIVE

BY WILLIAM F. WILLOUGHBY

Princeton University

No misconception in respect to the organization of the state, and of the functions of the various parts of its governmental machinery, is more prevalent than that the national assembly—the parliament, the congress, the legislative chambers, as the case may be—is simply, or primarily, a body for the formulation and passage of general laws for the determination of the rights and duties of the citizen body for which it acts. The enactment of public laws of this character is undoubtedly one of its functions, and, it needs scarcely be said, an exceedingly important one. That it is not its sole function, indeed, is not the one making the largest draft upon its time, is at once apparent if the attempt is made to analyse the work really done by it.

From the governmental standpoint, the primary function of the legislature is to determine, subject to constitutional limitations, how the government, and particularly the executive branch of the government, shall be organized, what work shall be undertaken, how such work shall be performed, what sums of money shall be applied to such purposes, and how this money shall be raised and disbursed. From this standpoint, the legislature is the board of directors of the public corporation. Representing, and acting for, the citizen stockholders, it is its function to give orders to the executive and, as a correlative and necessary function, to take such action as will enable it at all times to exercise a rigid supervision and control over the latter with a view to seeing that its orders are properly and efficiently carried out.

Manifestly this function is quite distinct from that of acting as a law-making body strictly speaking. The failure on the part of the public, indeed of the legislature itself, to recognize clearly this dual role of the legislature is due, in great part, to the fact that the legislature in performing its two functions proceeds in identically the same way, makes use of the same scheme of organization, and embodies its action in the same character of document in the one case that it does in the other. It is unfortunate that the same designation, "laws" or "statutes" is given to both classes of enactments. The two have almost nothing in common. Laws, from the juristic standpoint, have to do with rights, duties and remedies and the manner of their enforcement. They are general and permanent in character. Enactments for the purpose of giving directions to officers of the government are, for the most part, but administrative orders. The major part of them have only a temporary end in view. Of this character are the annual or biennial appropriation acts, the acts authorizing the construction of a bridge or public building, etc. Had the custom developed of giving to such acts a special designation and of segregating and publishing them separately, not only would a great convenience be subserved, but the different character of functions performed by the legislature would be made more clearly apparent.

This distinction between the two functions of the legislature—that of acting as a law-making body and that of acting as a board of directors —is important in any legislative body. It is especially so in respect to our national congress. Under our constitutional system, many of the great fields of public legislation are exclusively or predominantly within the jurisdiction of the several States. Debarred from these fields, congress has but a comparatively restricted territory within which to exercise its function as a general legislator. One has but to follow the proceedings of congress, or attempt to measure its work, as expressed in the session laws, to realize that the bulk of its activities is performed, not in the legislative field, but in that of "running the government" using that term in the most restricted sense in which it may be employed. Thus, for example, little pretense is made during the short sessions of congress to do other work than that of the passage of the regular appropriation acts.

The foregoing appears to be an indirect way of approaching the subject to which this paper relates. Not the first advance, however, can be made toward the solution of the problem here being considered until this distinctive character of the work of congress as a part of the mechanism for the day to day conduct of public affairs is clearly recognized. Efficient organization and methods of procedure can only be secured where the end sought, the work to be performed, is kept clearly in view, and a corresponding choice of devices is made. Is congress so organized and its rules of procedure so formulated? Has congress appreciated that its function as a board of directors is quite distinct from its function as a general law giver and as such requires a different organization?

We may, I think, answer both of these questions in the negative.

Congress performs its work as a directing and supervising board very inefficiently. It not only has made no attempt to organize specially with a view to the discharge of its duties in this field, but it does not even appreciate that it has here a special problem to be met. With two different functions to perform it has organized and adopted rules with only one of them in mind. We have thus here at the outset an explanation, and that a fundamental one, why congress does its governing work so poorly. It is our hope in the following pages to establish this assertion more clearly, and to suggest at least one method by which improvement may be wrought.

Under our scheme of government, not only is a clear distinction made between the functions of authorizing, directing, financing and supervising, on the one hand, and executing, on the other, but a separate organ is provided for the performance of each. Though thus clearly distinguished, the two have a common end—the conduct of the practical operations of government. Having such a common end, it is imperative that the two organs for the performance of these functions, though separate, should nevertheless be deemed to be integral and intimately related parts of one piece of mechanism. To this end it is essential that the two, both as regards their organization and their rules of procedure, should be based upon or follow the same principles. If they do not, they will not articulate. Instead of constituting integrated or smoothly geared parts of one mechanism, they will be but disconnected pieces of machinery, each working not only independently of the other, but often at cross purposes. That under such a condition of affairs loss of efficiency, if not constant friction, will be the result is inevitable.

Unfortunately this primary condition for efficiency has been utterly ignored in our national government. In organizing for the performance of its function of running the governmental machine, congress has disregarded almost wholly the organization that it has provided for the executive. To the latter it has given a scheme of organization corresponding in a rough way to the categories of work to be done. The executive has been first divided into fourteen primary units: the ten departments, state, treasury, war, justice, post office, navy, interior, agriculture, commerce, and labor, and the four so-called independent establishments; civil service commission, interstate commission, Smithsonian Institution, and isthmian canal commission.[1] Each of these departments and establishments has been further subdivided into bureaus and these in turn into a succession of subordinate units. This successive subdivision of the executive branch of the government is supposed to correspond to a logical subdivision of the field to be covered. Whether it, in fact, represents the most advantageous apportionment of work be to done, or grouping of services, is another question which we hope to consider at another time. The only point which it is desired to bring out is that here is a perfectly definite classification and distribution of work. A particular department is made responsible for a particular class of work, and within such departments are bureaus and divisions carrying the principle of specialization and location of authority still further.

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[1] The government printing office and the library of congress, though independent of the departments, are properly parts of the legislative branch of the government since they are under the direct control of congress.

This scheme of organization, as has been said, has been wholly ignored by congress in itself organizing for the performance of its share of the work. Taking the house of representatives for example, we may distinguish three classes of committees: the committees on general legislation, the committee on appropriations and the committees on expenditures in the several departments. Under this scheme, as operated, one committee has responsibility for the enacting of new legislation; that is, of directing what work shall be undertaken, what character of organization shall be provided, what shall be the provision in the way of plant, equipment and personnel that shall be employed, etc. Another committee has responsibility for determining the amount of money that each year shall be available for doing this work. A third committee attempts in a spasmodic and ineffectual way to examine into the manner in which this money is spent. Even this crude theory of organization is not consistently carried out. In some cases the same committee has charge of matters of general legislation and appropriations; in others one committee has charge of the first and another that of the second. Notwithstanding general rules to the contrary, matters of general legislation are often handled by the committee on appropriations.

This failure on the part of congress so to organize itself for the consideration in detail of administrative matters and the establishment of effective working relations between it and the executive establishments is regrettable enough where matters of general legislation affecting the work of such services are concerned. It is nothing short of disastrous where the matter to be acted upon is that of making provision for the support of such services. Here, if anywhere, it would seem that the policy would be pursued of entrusting to some one committee, or subcommittee, the task of studying in detail the operations of a service as revealed in its official reports, of calling before it the officers of such service for the purpose of eliciting further information and explanations, of scrutinizing the estimates submitted by such officers, and, on the basis of such examination, preparing an appropriation bill embodying its conclusions regarding the financial provision that should be made for such service for the ensuing year.

Nothing like this, however, is done. The entire operations and needs of a service, except possibly in a few isolated cases, are never considered at one time or by the same set of persons. For purposes of appropriations, congress has made the thoroughly irrational and vicious distinction between the bureaus proper at Washington and the field services or establishments that it is the function of these bureaus to maintain and operate. Appropriations for the first, the bureaus proper, are considered by one subcommittee of the committee on appropriations, and embodied in one appropriation bill, known as the legislative, executive and judicial appropriation bill, and those for the second, the field establishments, by another subcommittee and embodied in another appropriation bill known as the sundry civil appropriation bill. In addition to this, other committees may be considering other bills containing provisions vitally affecting the financial needs of such service.

The prime defect of this system is that, with possibly a few rare exceptions, no attempt has been made definitely to locate responsibility in any one committee for the conduct of affairs in any particular department or subdivision of the administrative service. In practically no case is there a committee so constituted that it feels that to it belongs the whole task and responsibility of familiarizing itself with the conditions, operations and needs of a particular service or class of services; nor has any committee any reason for seeking to establish the permanent, intimate relations with the head of a service which is essential if cordial coöperation between the directing and the executing authorities is to be secured.

The result is that at no time are the operations and needs of a service studied as a whole either by a committee of congress or by congress as a body. The several committees having in hand matters pertaining to the work or financial needs of a service may have quite different ideas regarding the policy that should be pursued in respect to the extension, curtailment or modification of the activities of such service. There is no member to whom congress is entitled to look for explanations and advice regarding the action that should be taken by it in respect to a particular service. With responsibility distributed as it is, there is no member to whom responsibility can be attributed. The present system is thus doubly defective: defective in not securing proper working relations between congress and the executive, and defective in failing to locate definitely that responsibility which pertains to congress itself.

The reason for the failure on the part of the houses of congress to make their committee organization correspond to that of the administrative branch and of the work to be done is not difficult to find. Congress still looks upon itself as primarily, if not almost exclusively, a law-making body. In organizing for the performance of its work it has had this function alone in mind. Its committees are preëminently committees for general legislation. Even where it has been compelled to create a special committee to handle matters of current appropriations it has shown no appreciation of the necessity for making the organization of this committee correspond to the administrative machine to be financed. There has, in a word, been an utter failure to attempt, much less to carry into execution, a scheme of organization that will correlate or articulate with that of the administrative machine to be run.

The fact that the two parts of the governmental machine do not articulate and work in harmony is only too well known. The most unfortunate feature of this condition of affairs is, however, that this situation is accepted as a necessary consequence of our theory of government with its distribution of governmental powers. The attitude of most students is that the only remedy is to abandon this theory and adopt, in whole or in part, that of a union of powers as exemplified in the government of Great Britain. It is with this attitude that the writer wishes to take issue. It may be that we cannot secure that perfect correlation of directing and executing powers that is secured in Great Britain through the concentration of legislative and executive functions in the same hands. It is his belief, however, that we can go a long way towards securing an equally harmonious relation between the two authorities provided that we are willing deliberately to put forth our efforts in this direction. It is with this object in view that he has attempted in the following pages to outline at least one method by which, in his opinion, this desirable end can be secured.

Briefly, the action here proposed is that congress shall definitely recognize its function as a board of directors and shall organize a committee system with the performance of that function directly in mind. To this end, each of the houses of congress should provide for a system of committees paralleling and corresponding to the system of organization that it has given to the executive. This committee scheme, in a word, should be based on organization units instead of topics of legislation. The adoption of this plan will mean that there will be in each house of congress a committee having direct charge of, and responsibility for, each service of the administrative branch. Authority and responsibility, in the first instance at least, will not only be as definitely located in congress as in the executive but will be located according to the same scheme or principle. It will thus mean the establishment of a system under which direct, personal relations may be obtained between the authorizing and the executing authorities that is now almost wholly lacking. At the present time there is no one person in congress to whom the head of a service is entitled to go as needs arise for joint action on the part of the two branches of government. There can be little reason to doubt that, under the proposed arrangement, close personal relation would be established between the head of each service and the chairman of the corresponding committee in congress. The former would take up with the latter the needs of his service, the changes required in respect to legislation affecting his service, the financial needs of the latter, etc. This he would do by informal conference as well as through more formal communications. The latter would, in turn, call upon the former for his assistance and advice in respect to propositions advanced and referred to his committee for action. Thus, notwithstanding the separation of powers, inherent in our system, means would be provided for bringing the two into far more effective and harmonious relations than are at present possible.

The foregoing is but a statement of the general character of the committee system which, it is believed, should be provided. To put this system in operation a number of difficulties have to be met. Among these much the most important is that of distinguishing, and separately providing for, the handling of matters of general legislation and of appropriations. The necessity for making this distinction gives rise, at the present time, to probably more difficulty in working out a proper system of congressional procedure than any other matter. Not the least advantage of the proposed plan is that it will go far towards meeting this difficulty.

From the purely administrative or business standpoint, the logical system would seem to be that of each service making known what legislation it needs for the successful prosecution of its work in all respects during the ensuing year. In a growing service this means, in many cases, that it will want, not only funds to carry on its operations as in the past, but new offices, new stations, additions to its plant, a readjustment of salaries, and often a more or less radical reorganization of its administrative system, or authorization to undertake new lines of work not sanctioned by existing law. Whether or not these demands are met materially affects the appropriations desired. It would seem therefore that the first thing that congress would have to decide, in respect to any service, would be whether any and what changes in existing law affecting the operations of such service it was prepared to authorize. Only after it had reached a decision in respect to such matters would it be in a position to determine the funds that would be required to carry out the scheme of work and organization decided upon.

From the legislative viewpoint, however, this scheme of considering matters of new legislation and of providing for the support of the government as already authorized by law presents serious objections. Any new legislation may present questions of general policy concerning which radical differences of opinion may exist in congress. If propositions of this character are embodied in the general appropriation bills discussion will center around them and the passage of any bill at all may be endangered. At best the individual member is often placed in the position where he will have to support a measure to which he is strongly opposed or contribute by his vote to stopping the wheels of government through the refusal of supplies essential for its operation. Furthermore, even though a majority for the bill is secured, the President is put in the position where he can only exercise his constitutional prerogative of disapproving of legislation to which he is opposed by vetoing the supply acts required for the due conduct of government.

This situation of affairs presented itself in an acute form at the 1911–12 session of congress, due to the fact that the committee on appropriations of the house reported certain appropriation bills containing new legislation of a radical character. Among other things, these bills provided for a reorganization of the war department in certain important particulars, the change in the term of enlistments in the army, the abolition of the court of commerce and a change of law regarding the tenure of office of civil employees at Washington. Notwithstanding the bitter opposition of many members, the appropriation bills containing these provisions were forced through the two houses and presented to President Taft. To prevent their enactment into law the President was forced to veto the bills in their entirety, with the result that the operations of the government were only continued, pending a final adjustment of the difficulty, through the passage of joint resolutions continuing in force existing appropriation acts. Though rarely reaching the acute stage that they did during this session, these difficulties are always present and give rise to more or less trouble. Any system of committee organization must take account of these conflicting considerations, and a procedure must be provided that will, if possible, harmonize them.

How does the system advocated propose to meet this difficulty? It does so in the following way. It proposes that the committees as above described shall be strictly committees of general legislation corresponding to the committees now possessed by the two houses. In addition to these committees, it proposes that there shall be in each house a single committee on appropriations to which alone shall be granted authority to report bills carrying an appropriation. Entire responsibility for the voting of funds will thus be concentrated, in the first instance, in this committee. The establishment of such a committee has frequently been advocated both inside and outside of congress. The distinctive feature of the present proposal is that this committee shall be composed, with the exception possibly of the chairman, exclusively of persons holding the chairmanships of the general legislation committees, or such of them as are most intimately concerned with the operations of government. It will thus, with the exception of the chairman, be composed wholly of ex-officio members.

In the next place it is proposed, as an essential feature of the scheme, that this committee should organize itself into subcommittees and divisions of subcommittees corresponding closely, or with fair approximation, to the system of general committees and the organization of the executive branch of the government. There should thus be a subcommittee for congress itself, one for the judiciary, and one for each of the executive departments and independent establishments. Each of these subcommittees should then be further subdivided into divisions corresponding to the several bureaus or services included within the branch of the administration over which the subcommittee has jurisdiction. The result of this scheme of organization would be to reproduce within the committee on appropriations a hierarchy of committees corresponding at all essential points with that of the executive.

In operating this scheme, the proposal is that all estimates for the government be referred to this single committee on appropriations. On their receipt they would be immediately split up, the estimates for each branch of the service being referred to the subcommittee having the affairs of that branch in charge. This subcommittee would in like manner apportion the work among its subdivisions. It will be the duty of each such division of a subcommittee to undertake the detailed work of familiarizing itself with the history, organization, activities and needs of the service or services assigned to it, of examining the reports and estimates submitted by the heads of such services, of holding hearings for the development of such further information as may be desired, and of embodying its conclusions in the first draft of an appropriation bill. This draft should then be submitted to the subcommittee of which it is a part for consideration by it sitting as a whole. The subcommittee will thus bring together the parts elaborated by its divisions, make such changes in them as it may deem fit in order to harmonize the conclusions or make the outcome conform to such general policy as it may see fit to adopt, and report its draft to the full committee on appropriations.

The committee on appropriations would thus in due course receive drafts of bills covering all branches of the government in such a form that it could consider not only each draft on its merits, but all drafts in their relations to each other and to the general state of the finances of the nation. It is taken for granted that each of the divisions of the subcommittees, and the subcommittes themselves, would submit with their drafts reports setting out clearly just what changes they had made over existing legislation, with statements giving their reasons for proposing such departures, and a report of the testimony taken or documents received by them as aids to them in reaching a conclusion.

We have, however, yet to show how, under this scheme, the conflicting considerations represented by the desirability of having matters of new legislation made the subject of special bills and yet be considered in connection with requests for appropriations. This is secured by the suggestion that the membership of the committee on appropriations consist wholly of the chairmen of the committees on general legislation, or such of them as handle matters affecting in any direct way the operations of the government. In making up the composition of the subcommittees and their subdivisions it is proposed that the chairman of a committee of general legislation having in charge certain matters would be the chairman of the subcommittee of the committee on appropriations having in charge the affairs of the service or services whose operations fall within the same field. Thus the chairman of the subcommittee on the bureau of navigation and the steamboat inspection service would be the member having the chairmanship of the legislative committee on navigation. Suppose now as the result of occurrences such as the *Titanic* disaster, the chiefs of the bureaus of navigation and the steamboat inspection service and their official superior, the secretary of commerce, become convinced that the government should do much more than it has done in the past for the ensuring that due precautions are taken for safety at sea. To do this both new legislation and additional appropriations for the ensuing year will be required. The undertaking of this work may also render desirable a thorough reorganization of the service or services entrusted with the work. It is evident that under the committee system outlined the initiative in respect to the responsibility for getting both matters before congress for action will fall to the same individual, viz., the member who is chairman of the subcommittee of the committee on appropriations on the bureau of navigation and the steamboat inspection service. Through him the advisability of enacting the new legislation can be immediately taken up by the committee on navigation and, if approved, a bill reported for this purpose. As chairman of the subcommittee on appropriations the estimates of the two services can be framed according to the decision reached by the committee on navigation and the probability of its decision being supported by congress. As the appropriation bills are usually passed at the end of the session, opportunity will be afforded to change provisions in the appropriation bills so as to make them conform to legislation actually had. If necessary resort can be had to supplementary appropriation acts.

We have now completed the task to which we addressed ourselves. That there may be no misunderstanding regarding the exact character of the proposal here made we desire, notwithstanding the repetition involved, to recapitulate what to us seems its essential features. Briefly the situation is this. In the government, as in all undertakings, the two functions of authorizing, directing, financing and supervising, on the one hand, and of executing, on the other, may be clearly distinguished. In private undertakings the performance of the first is entrusted to a board of directors, that of the second to an executive or administrative staff. In a government the first is assigned to the legislature, the second to the executive. Both functions are but parts of one process having a common end in view. If efficiency is to be secured it is imperative that the authorities exercising these functions shall be so organized, and their rules of procedure so formulated, that complete harmony in their working relations may be obtained. We have here the primary essential to an efficient administration of affairs. So fundamental is it, that it may almost be said that no real approach towards securing efficiency can be made until this primary condition has been met. In all the effort now being put forth to improve governmental conditions first consideration should therefore be given to this problem. With a satisfactory solution to it, other reforms will follow with comparative ease.

In Great Britain this problem has been perfectly met through the union of the two functions in the same hands, though, be it remarked, the two functions themselves are kept far more distinct than they are in this country. Under our form of government such a solution is impossible. The problem as it presents itself to us is, therefore, that of so organizing the two authorities to which the two functions are entrusted that, notwithstanding such separation, they will work in close coöperation with each other.

The first point that this paper has attempted to make is that no real effort has been made, either by congress or by students of our constitutional system, to work out this problem from this point of view. Discussion has largely centered around the comparative merits of the system of united and distributed powers. So far as the writer has information he knows of no serious attempt to take our system as it is and perfect it from this point of view. Certainly congress itself has shown little or no appreciation of the fact that in acting as the board of directors for the government it has a function quite destinct from its function as a general lawmaker, and calling for quite a different organization. The primary consideration urged, therefore, is that this distinction should be recognized, and that congress should deliberately apply itself to the task of specially organizing for the performance of this function.

The second point made is that in seeking to do its duty in this field it should unequivocally accept the principle that its organization for this work should follow, and conform to, that of the executive. Only as it does so will it be possible to make the two systems articulate. Only as such articulation is secured will it be possible to make the two systems work in harmony and coöperation with each other. This means, in practice, that each house of congress shall have a system of committees corresponding with approximate closeness to the system of organization of the government. If this is done, not only will responsibility and authority be definitely located, but the two systems will touch at all points thus permitting of close coöperative relations throughout.

Especially is it imperative that entire responsibility for appropriating funds for the support of the government shall be concentrated in a single committee and that this committee shall have an internal organization corresponding to that of the executive to be financed. It is through the examination of estimates and the voting of supplies that congress has the real opportunity of passing upon the manner in which the executive has discharged its duties, of gaining detailed knowledge of the needs of the several services, and of intelligently making provision for the future. It is impossible to perform this duty properly unless the work is distributed among subcommittees in some way. The only effective way in which this distribution can be made is by making it correspond to the distribution of duties in the executive. In this way can centralization of responsibility be secured and provision be made for authorities within congress which can maintain intimate relations with corresponding authorities in the executive branch.

Finally, the proposition is advanced that this central committee on appropriations should be composed of the chairmen of the general legislation committees. This is necessary in order to secure the complete centralization of responsibility and authority in respect to particular services and lines of work that is essential to efficiency. The one point aimed at is that there shall be within congress the same distribution of duties that obtains in the executive, that there shall be all along the line a correspondence between the two branches of the government, and consequently two officials, one in congress and the other in the executive, occupying correlative positions in respect to the work to be done. With this secured, the basis will at least be laid for an harmonious day-to-day coöperation between the two which is impossible under present organization conditions.

AN ANALYSIS OF PRESENT METHODS OF CONGRESSIONAL LEGISLATION

BY J. DAVID THOMPSON

Law Librarian of Congress

It is well known that the organization, functions and mode of operation of political institutions as set forth in articles of constitutions, statutes, legislative manuals, etc., frequently differ widely from what they are in fact. This is particularly true of legislative bodies. A good deal has been written on our form of congressional government by committees, outlining the main features of organization and procedure, but detailed operation is not shown. In order to throw some light on the latter I have undertaken an intensive study of the actual proceedings on bills, other than debate on the floor of both houses, to cover the whole period of the life of one congress, the sixty-second. The immediate purpose was to ascertain what developments of the law library service at the capitol would be most serviceable to its congressional public in connection with pending legislation, particularly in view of the probable provision of a bill drafting and legislative reference service in the near future. As, however, such a service, if established, would have to be adapted to the present methods of congressional legislation and to the actual needs of the various committees as well as of individual members, the results of this investigation may also be useful when the plan of organization is formulated in detail. The conditions in congress differ so markedly from those which obtain in the state legislatures that any plan for expert assistance in the improvement of federal statute law must be worked out *de novo*. The experience of the state bureaus is most suggestive but hardly conclusive as to the scheme to be adopted here.

Three methods of analyzing the work of the congressional committees have been used:

1. Beginning with the introduction of bills and resolutions, we are following them by means of the numerical indexes of the *Congressional Record* through committee to the end of the various stages they finally reached, separating the general, local, special, private and personal and classifying them by subject, taking a census of them to show quanti-

tatively as well as qualitatively the actual distribution of the work among the various committees, the character and the subject matter of the bills handled by each committee and the number actually reported and advanced to various stages in one or both houses. As there were over 38,000 bills and joint resolutions introduced in the course of last congress this study is as yet far from complete.[1]

2. Turning to the word "committee" in the alphabetical portion of the *Congressional Record* index we find under the name of each committee a list of the reports by it, whether printed or not, and these have been counted and classified by subject, showing very readily the nature and total output of recommendations by each committee whether resulting in legislation or not.

3. Starting with the laws as published in volume 37 of the *Statutes at Large*, they have been traced back by means of the marginal notes showing the bill numbers and thence by the index of the *Congressional Record* to the committees which handled them in both houses, grouping them at the same time by subject, matter under each committee. The results show the contribution of each committee to the actual output of laws during the sixty-second congress and give an indication of the kind of expert assistance which would be most serviceable to each committee in improving the form and substance of that part of the whole number of bills referred to them to which special attention should be devoted, namely those which actually become law.[2]

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[1] This large number of bills and joint resolutions produced only 457 public acts, 73 public resolutions, 180 private acts and 6 private resolutions.

A preliminary count of the 3355 bills and joint resolutions introduced in the senate during the *1st session only* shows that the number of those referred to each senate committee was as follows:

Agriculture and forestry, 17; appropriations, 12; civil service, 5; claims, 503; coast defenses, 1; commerce, 35; District of Columbia, 107; education and labor, 7; finance, 31; fisheries, 17; foreign relations, 10; forest reservations, etc., 4; immigration, 4; Indian affairs, 53; Indian depredations, 2; industrial expositions, 4; interoceanic canals, 1; interstate commerce, 21; irrigation, 8; judiciary, 55; library, 25; manufactures, 3; military affairs, 222; mines and mining, 1; naval affairs, 53; Pacific islands and Porto Rico, 1; patents, 2; pensions, 1921; Philippines, 2; post-offices and post-roads, 18; printing, 5; private land claims, 2; privileges and elections, 2; public buildings and grounds, 90; public expenditures, 1; public health and national quarantine, 4; public lands, 71; railroads, 1; Revolutionary claims, 1; standards, weights and measures, 1; territories, 13; University of the United States, 1.

An approximate calculation shows that 80 per cent were private bills.

[2] A summary of the statistical results obtained in (2) and (3) is shown in the following tables, giving the number of reports from each committee, by sessions and

for the whole congress, and the number of public and private laws in the enactment of which each committee was concerned:

SENATE COMMITTEE	REPORTS BY				PUBLIC LAWS	PRIVATE LAWS
	1st sess.	2d sess.	3d sess.	62d Cong.		
Agriculture and forestry	1	18	2	21	6	
Appropriations	9	27	13	49	31	
Audit and control contingent expenses	34	43	21	98		
Census	1	2		3	3	
Civil service and retrenchment		1		1		
Claims	6	195	21	222	2	44
Commerce	29	146	37	212	136	1
District of Columbia	46	67	27	140	31	3
Education and labor	1	6		7	5	
Finance	7	26	13	46	9	6
Fisheries	1	23		24		
Foreign relations	4	32	5	41	12	2
Forest reservations, etc		3		3		
Immigration		6	1	7	2	1
Indian affairs	8	69	10	87	28	3
Industrial expositions	2	2	4	8		
Interoceanic canals		1		1	1	
Interstate commerce	1	8	3	12	3	
Irrigation and reclamation		4		4	2	
Judiciary	9	41	29	79	37	
Library	7	9	7	23	4	
Manufactures		2	2	4	1	
Military affairs	22	150	61	233	48	33
Mines and mining		2	1	3	1	
Naval affairs	10	47	13	70	6	
Pacific Islands and Porto Rico		2	2	4	3	
Patents		4	2	6	4	
Pensions	1	51	18	70	5	77
Philippines	1	4		5		
Post-offices and post-roads		8	5	13	2	
Printing	16	32	5	53	1	
Private land claims		1	1	2	1	
Privileges and elections	4	6	2	12	2	
Public buildings and grounds	8	106	13	127	23	
Public health and national quarantine	1	2	1	4	1	
Public lands	7	112	38	157	65	11
Rules	2		2	4		
Territories	8	7	1	16	7	

HOUSE COMMITTEE	REPORTS BY				PUBLIC LAWS	PRIVATE LAWS
	1st sess.	2d sess.	3d sess.	62d Cong.		
Accounts	15	38	25	78	1	
Agriculture	1	15	4	20	6	
Alcoholic liquor traffic		1		1		
Appropriations	7	18	13	38	31	
Banking and currency	1	1	3	5	1	1
Census	2	1	2	5	3	
Claims		105	58	163	1	50
Coinage, weights and measures		2		2	1	
District of Columbia	19	36	22	77	26	3
Election of President, etc	2	1		3	2	
Elections No. 1		4	1	5		
No. 2		3	1	4		
No. 3		2	1	3		
Expenditures—Agriculture dept		2		2		
Commerce and labor			1	1		
Interior Department		1	4	5		
Post-office department	1		3	4		
Public buildings		1		1		
State department	3	1		4		
Treasury department	1	1	2	4		
War department		4		4		
Foreign affairs	2	27	6	35	14	
Immigration and naturalization		7		7	1	1
Indian affairs	5	58	7	70	43	3
Industrial arts and expositions	2	1	4	7		
Insular affairs		6	1	7		
Interstate and foreign commerce	27	113	28	168	107	
Invalid pensions		32	14	46	2	43
Irrigation		7		7	2	
Judiciary	2	72	19	93	37	
Labor	2	9	1	12	5	
Library	3	10	9	22	10	1
Merchant marine and fisheries		33	2	35	16	1
Military affairs	8	98	41	147	45	32
Mines and mining	1	7		8	2	
Naval affairs	5	22	6	33	7	1
Patents		6	2	8	4	
Pensions		31	10	41	1	34
Post-office and post-roads		2	4	6	2	
Printing	17	45	10	72	1	
Public buildings and grounds	7	33	2	42	26	1
Public lands	5	103	18	126	54	10
Reform of civil service		1		1		

A few suggestions for modification of existing methods and rules relating to bills, arising out of this investigation, may be considered germane to the present discussion of congressional procedure broadly interpreted.

The first relates to the printing of bills. At the present time these are numbered consecutively as introduced whether they are public or private, general, local or special, in one series for each house. A desirable change would be to separate public from private bills[3] and number each class in a distinct series. No administrative difficulties stand in the way because a distinction is now made in the printing law by which a smaller number of copies is struck off in the case of private bills. A very slight amendment of the law would be necessary to achieve the separation desired and this might be provided for in the revision of the printing laws now pending. Probably a better plan still would be to provide by rule in each house that the initial proposal for private or local legislation should be by petition and that these petitions should be printed in a numbered series similar to the bills. This would obviate any confusion which might arise through double series of bills. Individual members presenting such matters in congress would still retain any credit with their constitutents which may result from attention to personal and local interests of this kind. This separation may seem a matter of very minor importance, but I believe it would prove to be the first step towards the development of a special procedure on private and local legislation, possibly similar to that which now prevails in the British parliament. It would segregate for separate treatment at least 80 per cent of the of bills now introduced. The public bills of general interest would then form a relatively short series, which might be sold by the superintendent of documents in the same manner as the slip laws. In England, where

HOUSE COMMITTEE	REPORTS BY				PUBLIC LAWS	PRIVATE LAWS
	1st sess.	2d sess.	3d sess.	62d Cong.		
Revision of laws		1		1		
Rivers and harbors	1	5	2	8	6	
Rules	8	31	6	45		
Territories	7	11	1	19	8	
War claims		38	6	44		1
Ways and means	11	40	5	56	18	4

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[3] The term "private bill" shall be construed to mean all bills for the relief of private parties, bills granting pensions, bills removing political disabilities, and bills for the survey of rivers and harbors (28 Stat. L., p. 609).

copies of bills before parliament may be purchased from the agents for government publications, it has been found that such an arrangement promotes an intelligent public interest in pending legislation and incidentally is a great convenience to students of politics.

At the present time the text of a bill as reported is occasionally included in the report. It is desirable that this practice should be made universal by rule and that the reports also should be obtainable by subscription, so that persons interested would not be under the necessity of making personal application to members of congress for them.

A related subject, though not strictly a congressional matter, being in fact practically under the control of the department of state, is the classification of laws in the published volumes of the *Statutes at Large*. In part I (public laws) general, local and special acts are indiscriminately mixed as shown by the following enumeration of the subjects of the first 25 public acts in volume 37 in the order of their arrangement, viz: street extension in Washington, appropriations, Canadian reciprocity, customs administration, apportionment five acts giving consent to the construction of bridges across certain rivers, an amendment of the District of Columbia code, eight more local acts relating to bridges, sale of an old post-office building, extension of time for payment to certain homesteaders in an Indian reservation, grant of privileges to the port of Brownsville, construction of another bridge, and a further amendment to the District of Columbia code. Fully 60 per cent of the public acts are found to be laws of local or special application. This suggests the desirability of following the example of many states in collecting the general laws into a volume apart from the local and special. Possibly there might be appended to the former the treaties and conventions now included with the private laws in part II.

The measure to establish a legislative drafting bureau which has been favorably reported in the seante (S. 1240, 63d Cong.) provides that the service shall be restricted to the drafting of public bills and amendments on request of the President, of a committee of either house or of eight senators or twenty-five representatives. If this provision is retained—and some such limitation is obviously necessary in face of the enormous number of bills introduced at the present time—the question of allowing a bill to be introduced by a group of members will probably have to be considered again.[4] Such a practice, which would tend to reduce the number of competing bills on the same subject, would be established more readily if a short title clause were required to be inserted in each bill in order to furnish an official designation by which it should be known rather than by the name of the member introducing or reporting it as at present.

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[4] Cf. Report of select committee concerning the introduction of bills with the name of more than one member attached thereto (H. rep. 2322, 60th cong., 2d sess.; in vol. B, serial no. 5386).

Another series of questions raised by the aforesaid analysis relates to the number of committees, the extent of their jurisdiction and the way in which bills are handled by them. It is shown by these tables that out of the 73 senate committees and the 56 house committees of last congress only 31 in the senate and 32 in the house acted on bills which became law. As several of these were concerned with only a single bill of minor importance it is apparent that 30 standing committees in each house would be ample provision to take care of the legislative business of congress, with the occasional appointment of select committees on special subjects of legislation or to make special investigations, such select committees to be dissolved on completion of the work for which they were created.

It is desirable that the functions of these standing committees in the two houses should correspond[5] and that there should be provision such as prevails extensively in several of the New England state legislatures for joint public hearings on bills of general interest in order to avoid unnecessary duplication and waste of time and bring about a larger measure of preliminary agreement before report, both as to form and substance. By the assignment of draftsmen, when provided for, to assist the committees jointly it should be possible to secure identical phraseology in bills reported to the two houses for those sections and provisions on which there is agreement and to bring out clearly any differences which exist. This would enable debate on the floor of the senate and the house to be concentrated on the general questions involved and on the points of disagreement between the two committees. It would increase the efficiency of the legislative process considerably and make the final settlement of residual differences by a conference committee a simpler problem.

Another direction in which considerable time and energy could be saved is through the delegation of much of the local and special legislation to administrative bodies acting under general law, or, if congress is still unwilling to relinquish control, such legislation might be taken care of completely by the appropriate senate and house committees acting jointly, the passage of the bills through both houses becoming purely a matter of form. At the present time it seems like straining at a gnat and swallowing a camel for congress to insist that no bridge over a navigable river should be constructed without its direct consent when it has delegated its important rate-making power over interstate common carriers to a commission. It is particularly absurd that the time of the national congress and its committees should be taken up with the discussion of a bill to extend or widen a highway in the city of Washington or with a controversy as to whether the name of the street running from the White House should be "Avenue of the Presidents or "16th Street." The exercise of exclusive legislation over the District of Columbia does not require congress to make such minor municipal affairs the subject of special enactment.

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[5] The difference between the functions of house and senate committees with similar names at the present time is well illustrated by the following tabular comparison showing how the subjects of legislation within the jurisdiction of the

If the matters herein discussed seem trivial compared with the larger question of the relation between the executive and legislative branches, I would submit that the political engineer must give attention not only to the broad principles of political machine design but also to the detailed working of political mechanism, if efficiency is to be attained.

senate committee on commerce and the house committee on interstate and foreign commerce are allotted in the house and senate respectively:

SUBJECT OF BILLS	SENATE COMMITTEE	HOUSE COMMITTEE
Shipping	Commerce	Merchant marine and fisheries
Sub-ports of entry	Commerce	Ways and means
River improvement and flood prevention	Commerce	Rivers and harbors
Bridges and dams across navigable waters; light-houses and life saving stations	Commerce	Interstate and foreign commerce
Railroad regulation	Interstate commerce	Interstate and foreign commerce
Panama Canal	Interoceanic canals	Interstate and foreign commerce
Food and drug inspection	Interstate commerce or Manufactures	Interstate and foreign commerce
Adulterated seed	Agriculture and forestry	Interstate and foreign commerce
Public health service	Public health and national quarantine	Interstate and foreign commerce

EXECUTIVE PARTICIPATION IN LEGISLATION AS A MEANS OF INCREASING LEGISLATIVE EFFICIENCY

BY JAMES W. GARNER
University of Illinois

I think we hazard nothing in saying that the problem of efficient legislation under modern conditions is one of the most difficult tasks of government. This is due partly to the unwieldiness of overgrown legislative assemblies and the lack of responsible leadership; partly to the enormous demand for legislation, to meet which overtaxes the legislative machine; and partly to the complexity and intricacy of modern legislation, which enhances the difficulty of framing statutes and requires an amount of technical knowledge which the average legislator does not possess. A legislative assembly composed of five or six hundred members without an effective organization and without recognized and responsible leaders is not very unlike a mob. Such a body, like other mobs, must be guided and led if it accomplishes its work.

Mr. Bryce has indicted the possible solutions of the problem of legislation by assemblies of this character.[1] One is to restrict the action of the assembly to a comparatively few simple matters, reserving the others to a smaller body or to the executive. This was the method of the Romans, whose *comitia* had merely the power of adopting or rejecting measures proposed by the magistrates.[2] In a modified form, it was also the method of the French during the second Empire, when the laws were drafted by the council of state and laid before the legislature by the Emperor, who alone had the right of initiation.[3] The second solution is for the legislature to delegate the power of legislation to a single committee composed of members who are at the same time the chief officers of the executive department, the chamber merely retaining the right of veto. This is the system actually followed in England and to a less degree in other countries where the true parliamentary system is in force.

A third solution is for the assembly to divide itself into a number of committees among which all legislative projects are distributed and which sift out such as in their judgment are worthy of being enacted into law. These measures and these only are usually adopted by the assembly. This is the American method. Of these three methods, the first may be ruled out of consideration, leaving the choice to be made from the last two.

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[1] *The American Commonwealth*, vol. i, pp. 156–157.

[2] Compare Pelham, *Outlines of Roman History*, pp. 159–161.

[3] Constitution of 1852, title iii, sec. 8; title vi, sec. 50.

The parliamentary system in one form or another is the solution which has been adopted in the vast majority of countries, whether they be monarchies or republics, whether they have written or unwritten constitutions. In some of them, the ministers are at the same time members of the legislature; in others they are not, yet practically everywhere they have seats in the legislature with the right to initiate legislation and to be heard whenever they demand it.[4]

Wherever large and unwieldy assemblies have attempted to legislate as a whole without the initiation and guidance of leaders, they have not succeeded. Mr. Sidney Low in his *The Governance of England*[5] has pointed out how the power of legislation in the house of commons has gradually shifted from the house as a whole to the ministry, and Sir Courtenay Ilbert, President A. L. Lowell and Mr. James Bryce have dwelt upon the increasing tendency of parliament to delegate the power of subsidiary legislation to the executive officers. "The house," says Mr. Low, "is scarcely a legislating chamber, it is a machine for discussing the legislative projects of ministers." Lord Salisbury, who spoke with the knowledge which comes from long experience, said in a speech at Edinburgh in 1894; "We have reached the point where discussion is possible in the cabinet, but for any effective or useful purpose, it is rapidly becoming an impossibility in the house of commons." The house is now little more than a "ventilating chamber." Its most important function, as Mr. Low remarks, and as Mr. Bagehot many years ago pointed out,[6] is selective, that is its chief rôle is the choosing of leaders whom the house obeys and follows. It proceeds on the theory that its principal task is to get good laws made, not to make them itself. In theory the right of every member to introduce bills and to have them passed by the house remains, but in fact, four-fifths of all the bills that are passed—nineteen-twentieths of those that are of any great importance, are passed upon the initiation and at the instance of the cabinet, that is, the executive.[7] The attempt of the French chamber itself to legislate as well as to govern, and its disinclination to follow its chosen leaders are doing more than anything else to undermine the parliamentary system in that country. The French political writers are unanimous on this point. What has happened in the house of commons is likely to happen in every overgrown legislative assembly where the demands for legislation are enormous, because experience is more and more demonstrating the truth of Hamilton's saying that "in all legislative assemblies, the greater the number composing them, the fewer the men who will, in fact, direct their proceedings."[8] We are beginning to appreciate the force of John Stuart Mill's saying that a distinction should be made between legislating and getting good legislation enacted and that "the only task to which a representative assembly can possibly be competent is not that of doing the work itself but of causing it to be done; of determining to whom or to what sort of people it shall be confided and of giving or withdrawing its national sanction of it when performed."[9]

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[4] This is true in Austria, Belgium, Brazil, Chili, Costa Rica, Colombia, Denmark, France, the German Empire, Great Britain, Greece, Gautemala, Honduras, Hayti, Italy, Mexico, The Netherlands, Nicaragua, Norway, Portugal, Prussia, Spain, Sweden, Switzerland, and Salvador. The Constitution of the Southern Confederacy seems to have contemplated the introduction of parliamentary methods since it authorized congress to grant the right to cabinet ministers to occupy seats in either house with the privilege of discussing any measure pertaining to their departments.

[5] Page 75.

[6] *The English Constitution,* 2d edition, pp. 200–201.

The thing which distinguishes the legislative organization and procedure of the United States from that of practically every other country is the almost complete disjunction of the legislative department from the executive department. The Constitution debars cabinet ministers from membership in both houses and parliamentary practice denies them the *entréê* thereto either for the purpose of introducing bills, for defending the executive against attack, for furnishing information, or for participating in debate. The power to recommend measures for the consideration of the legislature ordinarily means little to an executive who cannot in person or through his ministers appear in the chamber for the purpose of explaining and advocating the adoption of his recommendations, and to one who belongs to a party which is in the minority in the legislature it means still less. The result is, executive messages have more and more degenerated into perfunctory summaries of departmental conditions or lengthy rhetorical discourses through which the executive addresses the great American public upon various political, economic and social questions, some of which lie quite without the jurisdiction of the national legislature.

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[7] Testimony of James Bryce before the committee of the house of representatives on various bills proposing the establishment of a congressional legislative reference bureau. Hearings, February 26, 1912, p. 8; cf., also, Sir Courtenay Ilbert, *Legislative Methods and Forms*, p. 215, for a table of statistics showing the number of government bills and private members' bills passed. For example, in 1900, forty-nine government bills were passed and only fifteen private members' bills.

[8] *The Federalist*, No. 58, Ford's ed., p. 389.

[9] *Representative Government*, (Universal Library edition), pp. 85, 95. See p. 96 for his proposal that legislation should be delegated to a small permanent legislative commission. Compare also his autobiography pp. 264–265 where he says, "there is a distinction between the functions of making laws, for which a numerous popular assembly is radically unfit, and that of getting good laws made, which is its proper duty and cannot be satisfactorily performed by any other authority."

While the veto power may be used to prevent bad legislation, it cannot be employed for the purpose of compelling legislative action, to carry out the pledges of the party by whom the president has been chosen. It is not a means of leadership or control.

In the beginning, a procedure akin to parliamentary methods was actually followed by congress. The law organizing the treasury department made it the duty of the secretary of the treasury to "make report and give information to either branch of the legislature in person or in writing respecting all matters referred to him by either house or which shall appertain to his office." In the debates on the bill, it was objected that it would result in the introduction of the parliamentary system and the assertion was not denied. In practice, the cabinet members frequently appeared in the house for the purpose of giving information and advice and for consultation.[10] Hamilton, especially, assumed the rôle of a crown minister, and his example was followed by other cabinet members.[11] At the time, all branches of the national government were housed in the same building, so that easy communication between the executive and legislative departments was greatly facilitated; in fact, they were in almost as close touch, says Professor Ford, as if the cabinet officers had been members of congress.[12] For some years these close relations were maintained, and the cabinet ministers exerted an important influence in the shaping of legislation.[13] When finally the connection was definitely severed and the cabinet members excluded from congress, there were some who regarded the change with deep regret.

[10] See the annals of the first congress, pp. 66, 51, 684, 689.

[11] Ford, *Rise and Growth of American Politics*, p. 81.

[12] *Ibid.*, p. 226.

[13] Compare McConachie, *Congressional Committees*, pp. 221 et seq., also Follett, *The Speaker*, pp. 319, 327, et seq.

Fisher Ames, for example, speaking of the abandonment of the early practice said:

> The heads of departments are chief clerks. Instead of being the ministry, the organs of the executive powers, and imparting a kind of momentum to the operation of the laws, they are precluded even from communication with the House by reports. In other countries they may speak as well as act. We allow them to do neither. We forbid them even the use of a speaking-trumpet; or more properly, as the Constitution has ordained that they shall be dumb, we forbid them to explain themselves by signs. Two evils, obvious to you, result from all this. The efficiency of government is reduced to a minimum—the proneness of a popular body to usurpation is already advancing to its maximum; committees already are the ministers; and while the house indulges a jealousy of encroachment in its functions, which are properly deliberative, it does not perceive that these are impaired and nullified by the monopoly as well as the perversion of information by these committees.

It is not at all improbable that the full parliamentary system would have been introduced in the beginning had it not been for the widespread fear of executive domination and tyranny due to the arbitrary conduct of the crown and of the colonial executives in America which had produced very strained relations between them and the legislative assemblies. The result was that the English cabinet system was in more or less disrepute in America. In its existing form, it possesses many features, as Mr. Wilson remarks, that did not invite republican imitation.[14] To most Americans, the English constitution was that of George III and Lord North rather than that of the Whigs, and the ministry was looked upon as a coterie of royal favorites who were controlled by the crown rather than by the house of commons. Under these circumstances, it was difficult to believe that the legislative and executive branches could be brought into close relations without the legislature being dominated by the executive. To avoid the danger of executive domination, it was thought necessary to establish a system of checks and balances such as the parliamentary system did not afford, and to the Americans of the latter eighteenth century, this required the complete separation of the executive and legislative departments. Moreover, the English parliamentary system was immature and operated in practice with far less smoothness and success than it does today. Mr. Bryce ventures the opinion that it was not adopted by the Americans because they did not know of its existence; and that they did not know of its existence because it was still immature, because Englishmen themselves did not understand it and because the recognized authorities did not mention it.[15]

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[14] *Congressional Government*, pp. 308–309.

The authors of the constitution were seduced by the theory of a Frenchman[16] into believing that it was not only possible to separate the legislative and executive departments, but that their disjunction was one of the essential conditions of liberty—a theory that was clearly disproven by the experience of the English constitution from which he drew his illustrations.[17] The founders underrated the inconveniences which are inseparable from the disconnection of the two departments and exaggerated the dangers from establishment of close relations between them. They carried the principle of separation so far that they sacrificed not only the efficiency which comes from mutual collaboration and responsible leadership, but each department was made weaker within its own sphere.[18] Nevertheless, as I have stated, quasi parliamentary methods were, in the beginning, followed in practice. The first rules of the house contained no provision for committees, although later in the session provision was made for a committee on elections. As the membership of the house increased and the demands for legislation became more numerous and pressing, the number of committees was gradually multiplied until today there are nearly as many committees in the house as there were representatives in the first congress, and each is to all intents and purposes a miniature legislature in itself. From being a real legislative body, the house has more and more become a huge panel from which the actual legislative organs are selected. Each committee goes its own way without regard to the others; their jurisdictions often overlap; and none are responsible for the legislation which they recommend. The disadvantages of such a system are evident: lack of cohesion and harmony, loss of responsibility, waste of energy and patchwork legislation. Committee hearings are public, but their deliberations are secret and the debates are unreported. The light of the nation cannot be focused upon the doings of sixty or seventy such bodies; the public, therefore, must be content with the information which it gets from the debates in the house, and these are, to a large extent, irrelevant oratorical performances intended for the edification of the galleries or for particular constituencies rather than serious discussion of the merits of proposed legislation.

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[15] *The American Commonwealth*, ed. of 1910, vol. i, 286.

[16] Madison stated in the Convention that Montesqieu was the "oracle always consulted," (*Federalist*, Ford's ed., p. 320).

[17] Madison himself pointed out that "on the slightest view of the British constitution" the departments were not separate and that the theory was subject to many exceptions and limitations. *Ibid.*, p. 327.

[18] Cf. Bryce, *American Commonwealth*, vol. i, p. 288.

As is well known nine-tenths of the measures reported by the committees are approved by the house and practically none which are not favorably recommended by them have any chance of being enacted into law. The result is the committees have become the real legislative bodies, and the congress as a whole a mere ratifying organ. That such a system of legislation is a satisfactory solution of the problem of legislation, scarcely anyone will seriously pretend, and it cannot be expected to endure permanently. The evils have been dwelt upon by many writers.[19] Under such a system, the house is guided by a multiplicity of leaders, which is equivalent to saying that it is without leaders in any real and effective sense. In the course of the evolution of the committee system, the necessity for leadership was in some degree met by the concentration of authority in the speaker and the committee on rules, that is to say, the house tended to shift the responsibility from a multitude of leaders to a single committee controlled by the presiding officer. But against this solution the majority of the house rebelled, and the leadership of the speaker and of the committee on rules has recently been repudiated. Another solution must, therefore, be found; the house must have authoritative leaders; it cannot be led by sixty odd committees.[20] There must be some single smaller body for examining, sifting, and choosing from among the enormous mass of bills with which congress is now almost continually overwhelmed, and for steering through the house the measures for which there is a real need. The solution for which there is an increasing popular demand consists in the introduction of executive leadership and responsibility. To accomplish this change, it is not necessary to alter the Constitution or to enact a statute; it can be brought about as well by parliamentary custom.

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[19] Notably by Bryce, *"The American Commonwealth,"* vol. i, chs. 14–15; 20–21, Wilson, *Congressional Government*, chs. 2, 5; also his *Constitutional Government*, chs. 3–4; Godkin, *Unforeseen Tendencies in Democracy*, pp. 96–145; Ford, *Rise and Growth of American Politics*, chs. 18–22; Macy, *Party Organization and Machinery*, chs. 3–4. Compare, also, the following remarks by Mr. Henry L. Stimson, criticizing the committee system, (*The Independent*, 1913, p. 1225). "Tremendous powers are exercised in secret by men who, neither as committeemen nor as congressmen, are responsible to the country at large. Congress is at the mercy of any individual or private interest which can get before any of these committees, and on an ex parte hearing impress the committeemen with a desirability of an appropriation. Such legislative methods simply invite demands for improper favors."

[20] Compare especially on this point, Wilson, *Congressional Government*, ch. ii.

As I have said, these departments are now almost entirely disjoined; the only connection is through the committees and this connection is wholly unofficial and entirely dependent upon the willingness of the committees to enter into relations with the President or with the heads of departments. The maintenance of a certain relationship between the two branches is absolutely necessary,[21] and in practice these relations are and always have been more extensive and intimate than is generally supposed,[22] but they are entirely dependent upon the invitation of the committees themselves, are unofficial and more or less secret in character.

As it is, the policies of the executive are frequently subjected to severe criticism in Congress and this criticism is often based upon misinformation or misunderstanding, yet the President has no official spokesman on the floor to answer, explain or defend. Although the chosen leader of his party and more and more regarded by the public as responsible for the fulfillment of past pledges to the nation, he is by his very exclusion from the legislature deprived of the power of leadership which makes responsibility real and effective.[23]

This leadership and coöperation may be secured by the following methods:

1. By the restriction of executive messages or addresses, as they now are, to a few definite recommendations embodying the policies in favor of which the party has pronounced in its platform or those for which the President is willing to assume the responsibility. If this were done, congress would treat the recommendations of the President more seriously and not as mere perfunctory suggestions or popular addresses intended mainly for the country. The general public would take a deeper interest in the executive address because of its brevity and its definiteness and this would induce the formation of a more definite public opinion to which, if it were in support of the measures recommended, the President might appeal with greater effectiveness in his efforts to compel legislative action.

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[21] Compare, Follett, *The Speaker*, pp. 327–329.

[22] "The usage from the commencement of the government" said Mr. Cambreling, chairman of the ways and means committee in 1837, "has been for the committee through its chairman to consult the head of the department in regard to such measures as he may recommend for the consideration of Congress, for the secretary to attend upon and confer with the committee, if invited, and to furnish the drafts of bills embracing his own proposals, when requested to do so." McConachie, *Congressional Committees*, p. 223.

[23] Compare Macy, *op. cit.*, p. 25, and Wilson, *Constitutional Government*, pp. 67, 202.

2. By allowing the executive the right to initiate bills and by giving precedence to administration bills over other measures, as is the practice in countries where the parliamentary system prevails and which is now the practice in the legislature of Illinois.[24] This done, let the majority in congress frankly recognize the leadership which the country has conferred upon the President, as well as the responsibility which the nation more and more insists that he shall bear. Writing when he was yet only a student of politics, Mr. Wilson says:

> So far as the government is concerned there is but one national voice in the country, and that is the voice of the President. . . . . He alone is chosen by the nation at large. Representatives are the elect of petty constituencies and the senators are chosen by the states; he is, therefore, the only spokesman of the nation, the leader of his party, and he cannot escape that leadership except by his own incapacity. . . . . Leadership in government naturally belongs to the executive officers who are daily in contact with practical conditions and exigencies, the law making part of the government ought, therefore, to be very hospitable to suggestions from the executive department in regard to legislative needs.[25]

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[24] A rule adopted by the Illinois house of representatives at its last session reads as follows: "When any bill or resolution is introduced for the purpose of carrying into effect any recommendation of the governor, it may by executive message addressed to the speaker of the house be made an administrative measure. The administrative measure may be sent to the appropriate committee or it shall upon request of its introducer, be sent to committee of the whole House. When such a measure had been reported out of committee, it shall have precedence in the consideration of the house over all other measures except appropriation bills. The house shall sit in committee of the whole for the consideration of administration measures on Tuesday morning immediately after reading of the house journal."

"The purpose of this rule" says Senator Hull, its author, "is obvious. It is intended to give assurance to the governor that measures which he recommends will be given fair consideration and by such assurances to impose upon him the obligation to have a legislative program. By so doing, it is hoped to give greater significance to party platforms and to make in some small degree for party responsibility and party government." *American Political Science Review*, May, 1913, p. 239.

[25] "Some of our Presidents" says Mr. Wilson, "have deliberately held themselves off from using the full power they might legitimately have used, because of conscientious scruples, because they were more theorists than statesmen. They have held the strict literary theory of the Constitution, the Whig theory, the Newtonian theory, and have acted as if they thought Pennsylvania Avenue should have been still longer than it is; that there should be no intimate communication of any kind between the capitol and the White House; that the President as a man was no more at liberty to lead the houses of congress by persuasion than he was at liberty as President to dominate them by authority—supposing that he had, what he has not, authority enough to dominate them."

3. By permitting the cabinet members to occupy seats in either house of congress with the privilege of answering questions, giving information, and of advocating the adoption of measures which the executive has recommended. This is not a new proposal. It was urged by a select committee of the house in the thirty-eighth congress and again by a select committee of the senate in the forty-sixth congress (1881). The advantages of such an arrangement were dwelt upon by Judge Story in his work on *The Constitution;*[26] more recently still, it has been urged by President Taft in a special message to congress,[27] and it is well known that the idea has

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[26] Sec. 869. Speaking on this point, Judge Story said: "The heads of the departments are, in fact, thus precluded from proposing or vindicating their own measures in the face of the nation in the course of debate, and are compelled to submit them to other men who are either imperfectly acquainted with the measures or are indifferent to their success or failure. Thus that open and public responsibility for measures which properly belongs to the executive in all governments, and especially in a republican government, as its greatest security and strength, is completely done away. The executive is compelled to resort to secret and unseen influences, to private interviews, and private arrangements to accomplish its own appropriate purposes, instead of proposing and sustaining its own duties and measures by a bold and manly appeal to the nation in the face of its representatives. One consequence of this state of things is, that there never can be traced home to the executive any responsibility for the measures which are planned and carried at its suggestion. Another consequence will be (if it has not yet been) that measures will be adopted or defeated by private intrigues, political combinations, irresponsible recommendations, and all the blandishments of office, and all the deadening weight of silent patronage."

[27] *Congressional Record*, January 13, p. 12. Recommending that cabinet members be allowed to attend the sessions of the house and senate and to take part in the debate, Mr. Taft said: "The rigid holding apart of the executive and the legislative branches of the government has not worked for the great advantage of either. There has been much lost motion in the machinery, due to the lack of coöperation and interchange of views face to face between the representatives of the executive and the members of the two legislative branches of the government. It was never intended that they should be separated in the sense of not being in constant effective touch and relationship to each. The legislative and the executive each performs its own appropriate function, but these functions must be coördinated. Time and time again debates have arisen in each house upon issues which the information of a particular department head would have enabled him, if present, to end at once by a simple explanation or statement. Time and time again a forceful and earnest presentation of facts and arguments by the representatives of the executive whose duty it is to enforce the law would have brought about a useful reform by amendment, which in the absence of such a statement has failed of passage. I do not think I am mistaken in saying that the presence of the members of the cabinet on the floor of each House would greatly contribute to the enactment of beneficial legislation. Nor would this in any degree deprive either the legis-

the support of President Wilson. By thus bringing the executive and legislative departments face to face for purposes of consultation and collaboration, the time of the legislature would be economized, it would afford a means by which congress could keep itself better informed of what the executive departments are doing, it would conduce to harmony of action between the two departments and would relieve the executive from unnecessary criticism based on misunderstanding and want of information. Ex-President Taft says:

> The ignorance that congress at times has of what is actually going on in the executive department, and the fact that hours of debate and pages of the *Congressional Record* might be avoided by the answer to a single question by a competent cabinet officer on the floor of either house is frequently brought sharply to the attention of competent observers.[28]

There are few measures which congress is called on to consider to which the heads of departments are not competent to contribute the sort of information which is necessary to intelligent legislation, yet under the present system of working at arms length, the only official means of securing information is through the slow and circumlocutory process of formal resolution addressed to the executive and a written reply.[29]

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lative or the executive of the independence which separation of the two branches has intended to promote. It would only facilitate their coöperation in the public interest."

[28] Article on "The Presidency" in the *Independent*, 1913, p. 1197. Cf., also, an editorial in the *Nation* for December 26, 1912.

[29] As an illustration of the inconveniences resulting from the present system which excludes cabinet members from occupying seats in congress the following passages may be cited from the *Congressional Record* of January 29, 1862 (vol. 46, pt. i, p. 549). The house was considering a bill to authorize the issue of legal tender treasury notes.

Mr. Roscoe Conkling: "I understand the gentleman to say that no measure like that he is about to discuss was ever entertained in debate, or, if I understand him, ever recommended by any department of the government; and I would like to inquire of the gentleman from Ohio (Mr. Pendleton), whether he is prepared to answer, and if not, of the chairman of the committee of ways and means, or the gentleman who reported this bill, whether the present secretary of the treasury is in favor of making paper a legal tender; and also whether he is prepared to recommend to congress the adoption of that measure? I will say, with the permission of the gentleman, that, for once, I should like very much to know what is the opinion of the secretary of the treasury, embracing not only the extent of the constitutional power but the economic and political extent, if that is involved in the proposed measure, of making paper a legal tender in payments of debts."

Mr. Spaulding: "In reply to the question of my colleague, I will say that the

In this connection, I venture the suggestion that the executive should be permitted to designate experts like the French *Commissaires du Gouvernement* to appear before the houses for the purpose of explaining measures of an administrative and technical character. An assistant secretary, the chief of a bureau or a commissioner who has had years of practical experience in dealing with the problems upon which it is proposed to legislate, may be presumed to be better informed concerning the expediency and practicability of such legislation than the average member of congress. A brief explanation by such an expert would, in many cases, throw more light upon a proposed bill than days of discussion by members whose information lacks the definiteness and accuracy which comes from practical experience and first hand knowledge.

A more important advantage still from allowing cabinet members seats in congress is that it would enable the President to exert, in an open and official manner, that influence upon legislation which the country more and more expects of him, and which his responsibility to the nation implies. As it is, his official power is exhausted when he has delivered his message to the two houses for neither he nor his ministers may follow up his recommendations by means of oral explanation, argument or persuasion.

It is somewhat singular that congress is one of the few legislative bodies that attempts to do its work almost entirely without expert assistance—without the aid of parliamentary counsel, without bill drafting and revising machinery and without legislative and reference agencies, and until now it has shown little inclination to regard with favor proposals looking toward the introduction of such agencies.

Lastly, the time has come when it is worth considering whether congress should not abandon the practice of embodying purely administrative details in the statutes and leave to the executive a larger power of dealing with such matters by orders and regulations. The result would

Secretary of the Treasury has been called upon for his opinion in regard to the bill. We were assured that his reply would be sent to us yesterday, but we did not receive it. We expect his answer every hour."

Mr. Roscoe Conkling: "I am not certain that I understand what my colleague said. Does he expect a letter from the Secretary of the Treasury which will contain his views on the financial question and also on the legal question?"

Mr. Spaulding: "Upon this bill specifically?"

Mr. Roscoe Conkling: "Containing the legal tender clause?"

Mr. Spaulding: "Yes, sir."

Mr. Pendleton: "I can not answer the question of the gentleman, so far as the opinions of the present secretary of the treasury are concerned."

be not only to simplify our statutory law and give it a more scientific character, but it would facilitate the process of legislation by confining the consideration of congress to the main principles involved, and thereby avoiding waste of time upon minor questions and details. Long and complicated measures encumbered with a mass of details of an administrative character cannot be intelligently considered by an assembly of four or five hundred members. On the face of it, nothing seems more preposterous than to submit such a draft to an assembly of this sort.[30] Congress is unfitted for framing and discussing administrative regulations and the task should be left to the executive officers as is the practice in England, and, to a still greater extent, on the continent. There, as is well known, the statutes are framed in general terms, embodying a statement of the main principles and it is left to the minister to supply the necessary administrative details for putting the statute into operation.

In England, moreover, the statutes frequently empower the ministers to issue orders in council having the same force as acts of parliament, subject only to the condition that they shall be laid on the table of both houses and if not expressly disapproved they become law. They are known as "statutory orders" and are prepared by the departments within whose jurisdictions they properly belong. They are printed like the acts of parliament and, in quantity, they constitute a very much larger mass of legislation than do the statutes.[31] The English have found no danger in this extensive delegation of legislative power to the executive department; on the contrary, it is the testimony of all the writers on English parliamentary procedure that it is both wise and necessary. Mr. Lowell says:

> In spite of the potential control retained by the houses over statutory orders, the growing habit of delegating authority to make them involves a substantial transfer of power from parliament to the executive branch of the government, a transfer due in part to the increasing difficulty of legislation.[32]

Formerly, the English statutes went into great detail and attempted, as American statutes now do, to embody the complete legislative will, but the inherent difficulties of modern legislation made its abandonment necessary. If congress were to relieve itself, as the British parliament has lately done, of the task of administrative legislation and delegate a large power of subsidiary legislation to the executive department which is better fitted for the task, I venture to say that it would not only simplify the problem of legislation, but it would result in a substantial improvement in the quality of the legislative output.

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[30] Compare Courtenay Ilbert, *Legislative Forms and Methods*, pp. 40–41.

[31] Compare the testimony of James Bryce in the hearings before the house committee on library on various bills proposing the establishment of a congressional reference bureau, February 26, 1912. pp. 14, 20.

[32] *The Government of England*, vol. i, p. 366.

The signs indicate that we are tending slowly toward the solution which I have indicated above. Mr. Taft's special message advocating the admission of cabinet members to seats in congress, the new method of executive communication with congress introduced by President Wilson, his well known desire to establish closer personal relations between the legislative and executive departments, his willingness to assume responsibility for carrying out the policies of his party and the excellent results which have attended the adoption of this theory of executive leadership by several recent governors (notably by Hughes of New York, Wilson of New Jersey and Cox of Ohio),[33] are indications of the tendency toward a new conception of executive leadership. Moreover, the theory is in harmony with one of the strongest political tendencies of the time, namely, the growing disposition to exalt the executive and to concentrate larger powers of leadership and responsibility in his hands. It is the inevitable result of a reaction against the evils of our exaggerated system of checks and balances and of divided responsibility. Public opinion approves the new theory of executive leadership in legislation. We read from an editorial in a recent number of one of the most reputable magazines the following words:

> Practically speaking, the popular mind accepts the President as head of the legislative branch of the national government . . . . the public expects the President to manage congress. If he does not do this, he is not considered a successful President.[34]

The truth of this statement may be doubted, but it unquestionably represents the view of a large and increasing number of persons. Of course it is not to be expected, nor is it desirable, that congress should abdicate its legislative power in favor of the executive, but if it is to do its work smoothly and efficiently, its forces must be unified and it must have leadership. The signs seem to indicate that this is to come from the President, who, in the course of the evolution of the Presidential office, is coming more and more to be regarded, as Mr. Wilson has remarked, not only as the legal executive but the responsible leader of his party, and the guide of the nation in the formulation of its political policies.[35]

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[33] Compare an article by Mr. J. M. Mathews entitled "The new Rôle of the Governor" in *The American Political Science Review*, May, 1912, pp. 216 et seq.

[34] *World's Work*, November, 1913, p. 11; cf., also, a recent editorial in the *Nation*, vol. 96, p. 380.

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[35] *Constitutional Government*, p. 75.

THE IMPROVEMENT OF LEGISLATIVE METHODS AND PROCEDURE

BY CHESTER LLOYD JONES

University of Wisconsin

The reform of our legislative methods is a generally recognized need. State legislative reference departments to furnish information upon which effective law-making may be based and to put the bills proposed in proper form are growing in number.

Not less important is the reform of the methods by which bills are handled *after* their introduction, but legislatures have been slow to realize the necessity of efficient methods and procedure.

The observance of outgrown rules in the courts has been frequently commented upon. Less attention has been given to the fact that legislatures are little, if any, less prone to consider that rule of procedure best which has the sanction of long usage no matter whether it fits modern conditions or not. The rules of legislative procedure in all Anglo-Saxon countries still retain many features which are survivals of arrangements originally adopted to insure deliberation, but which have now become only instruments of delay. Curiously enough though, our States are the units in which the greatest willingness has been shown to try experiments in the field of legislation proper, they have recast legislative procedure to a much less degree than has congress. Our federal government also has revised its methods of doing business much less frequently than the British house of commons.

THE REFORM OF BRITISH PROCEDURE

Since 1832 there have been in the house of commons in all fifteen committees to examine simplification of bill procedure on public bills in addition to seven dealing with private bills.[1]

The radical changes in the membership of the house following the reform bill were reflected in the changes in the manner of conducting sessions. The experience of foreign countries—European and American

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[1] Redlich, Josef, *The Procedure of the House of Commons*, Vol. I, p. 78.

—was investigated and adapted to insure that the best means should be secured to promote real deliberation and despatch.[2] Though the house has shown itself much less willing than its parliamentary leaders[3] to break with its past practice, the result of these revisions is that the cumbersome procedure of the early part of the nineteenth century has been abolished though the main lines of the order of business have been preserved.

A few illustrations of the cumbersome and antiquated rules surviving in the first quarter of the century are these: Four separate motions were put on every petition offered to the house (1) that the petition be brought up; (2) that it be received; (3) that it do lie upon the table; (4) that it be printed. On each motion debate might occur. On introduction of bills debate was allowed until 1837 to decide whether they should be read a first time and whether they should be printed. In all no less than eighteen debatable questions were put during the passage of each bill through the house even as late as 1852.[4]

All these steps, as Sir Thomas Erskine May pointed out in 1854,[5] were perhaps necessary to guarantee due notice in a time when there were no printed votes or bills, parliamentary reports and papers were not circulated, strangers were excluded, and the debates unpublished. They were unwelcome hindrances to parliaments which had faith in the improvement of social and economic conditions by law, and most of them were discarded.

REFORM OF PROCEDURE IN THE HOUSE OF REPRESENTATIVES

A similar though less thorough change had meanwhile taken place in the Congress of the United States, especially in the house of representatives.

The basis from which our federal procedure started was British practice[6] of the seventeenth and eighteenth centuries as modified by American experience. The Pennsylvania assembly and Virginia house of burgesses furnished the models for congress.[7] The procedure of 1789 took over in this way features of British practice which have been found unsuited to American conditions. For example there was formerly no freedom of individual initiative on the introduction of bills. They could be brought in only by motion for leave or by a committee, which reported under authority given it by an order of the house on a resolution or petition. In practice this meant that the latter was the only method used. On the reception of each petition three questions had to be put, each of which could be debated.

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[2] Redlich, Vol. I, p. 84. The Committee of 1848 studied the procedure of the French chamber and of the house of representatives of the United States.

[3] "As in other fields of action Parliament, during the nineteenth century more than in any former time showed itself under the sway of a radicalism which, starting from considerations of pure utility, was prepared to lay aside old forms and rules and to adopt alterations as soon as the practical necessity for them was proved."—Redlich, p. 74. For radical suggestions of reform see Lord Althorp's suggestions in 1833 and Mr. (afterwards Sir) Thomas Erskine May's suggestions in 1854 and 1878 discussed in Redlich, pp. 74–116.

[4] See Redlich, p. 81, 84, 88.

[5] Redlich, p. 89.

In fact for the first fifty years, under the constitution, the introduction of formulated bills in the house was almost unknown. The speaker declared in 1837 that since the beginning of the government to that time "but few cases were to be found (he believed but two or three) of bills brought in on motion for leave; and these, so far as anything appears had been brought in by general consent and referred *sub silentio* to a committee of the house."[8]

But the old rules had to yield to the exigencies of a time which demanded that useless forms be discarded to save time. With the pressure for more legislation the discrimination against the motion for leave to introduce bills resulted in increasing the petitions and resolutions, asking that committees be directed to investigate the advisability of legislating on given subjects. The member introducing the petition or resolution came to be by courtesy the chairman of the committee to investigate the subject, and the resolutions instructed the committees with such detail that little discretion was left them in the framing of the measure. In short, the machinery to keep out measures unless approved in principle by the majority broke down completely.

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[6] See *Jefferson's Manual*, Preface.

[7] McConachie, L., *Congressional Committees*, p. 10.

[8] Congressional Debates, 1836–37, January 10, 1837, Col. 1340–44. "The policy of our rules and the practice under them have always been to employ the agency of committees organized by the house to originate and bring in bills. . . . . These committees have a right to report by bill without an order of the house. . . . ." "No individual member has this right." Col. 1344. An instance of attempted introduction of a bill in the house by motion for leave is found in 2d sess., 19 Cong. Debates, Col. 775–76. It was described by Mr. Powell as "a very unusual proceeding." "The ordinary mode adopted by gentlemen who wished to have a bill on any particular subject introduced into the house was to offer a resolution proposing an inquiry on the subject by some one of the committees of the house." In the 1st sess., 20 Cong. Debates, December 19, 1827, Mr. Archer declared "If a mere member of the house may on leave bring in any bill which suits his particular views and that bill must of necessity pass immediately to its first and second reading all sound legislation would be at an end." Col. 824. The practice of introducing bills on motion for leave had already found acceptance in the senate. Ibid., Col. 1344.

In the period 1835 to 1850 the procedure of introducing bills on motion for leave replaced the former more dignified but less expeditious practice.[9] At first the leave to bring in a bill was frequently contested, the debates extending in some cases over days but gradually the "leave" came to be a matter of form. As a form only, it held its place in the rules up to as late as 1890, but in fact all debate upon introduction disappeared long before. The way was clear for the increasing flood of measures with which congress has had to deal. Indeed in the house of representatives the last vestiges of formal presentation of bills disappeared. Bills are now merely dropped into a basket at the desk, popularly known as the "hopper."

This development is typical of a number in congress, a few examples of which may be given. The old rule requiring three readings on three separate days has been discarded. The "first reading" has degenerated into a printing of the title in the Journals and Record. The second reading formerly occurred before commitment and consumed much valuable time. It now occurs for bills considered in committee of the whole, in that committee, and for bills considered in the house alone, when they are taken up for action.[10] Inasmuch as six out of seven bills never pass the committee stage the economy of time under the new rule is evident.

Third reading, too, has shrivelled to a reading of the title. The right to demand the full reading after engrossment exists, but is seldom insisted upon. In fact, the engrossed bill is not the one regularly read on third reading and to insist that it shall be first engrossed necessitates putting the bill over with the danger of defeat by the delay.[11]

It is no longer necessary that the readings of a bill occur on different days, indeed even the setting of an hour for voting has been discarded to expedite business. With the decline of the "readings" has gone a relaxation of the rules regarding "printing." This step now occurs as a matter of course and is never debated.[12]

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[9] See Hinds' *Precedents*, iv, 3365; Also Jefferson's *Manual*, sec. xxiii; *House Manual*, 62d Cong., 3d session, sec. 391.

[10] *House Manual and Digest*, 62d Cong., 3d sess., sec. 812.

[11] See *House Manual and Digest*, 62d Cong., 3d sess., secs. 811–14 for discussion.

[12] See the general printing statute approved January 12, 1895, as modified by amendments adopted January 20, 1905, and June 25, 1910.

REFORM OF LEGISLATIVE PROCEDURE IN STATE LEGISLATURES

To a much less degree have the States modified their methods of doing legislative business. The powerlessness of the general assemblies before the mass of legislation introduced has all too often resulted in the creation of extra-legal partisan bodies into whose hands the legislature delivers the power to select the measures to be presented for debate, thus practically eliminating the control over bills under the formal procedure.

An example of this sort is the rules committee of the New York assembly. Originally like its fellows in other legislatures this body only had extraordinary powers in the period, usually ten days, immediately preceding adjournment, when the crowding of bills seemed to make some selective agency essential. But the party leaders extended the actual period of control by setting a day for adjournment earlier than there was any possibility of adjourning. The actual period during which the rules committee is in control is often in this way extended to a month. In 1911 the rules committee controlled the legislation before the Assembly from April to October.[13] Such agencies are, however, irresponsible and do not effectively relieve the pressure for legislation. They only avoid the defects of our procedure by practically eliminating both its inconveniences and its safeguards.

A method of centralizing the control of bills, even if the number introduced is not controlled, is much to be desired. The cabinet form of government with its definite responsibility has not yet been adopted by any of our commonwealths but there are instances of a growing executive participation in legislation which shows the possibility of developing extra-legally a centralization of party responsibility. The insistence upon the redemption of certain pledges of the party platform by the present national administration is an example. In the States a number of executives have felt themselves responsible for the carrying out of party policy. They have insisted upon the enactment of the laws declared for in the party platform, and have used the influence of their offices to advance measures advocated in their own messages. Nowhere has this been more notable than in Ohio where Gov. James Cox has been especially successful in making himself the spokesman of his party for carrying out party pledges. He formulated the legislative program, considered himself personally responsible for securing its adoption, and was successful in obtaining his complete schedule of legislation. If this sort of responsibility came to be generally exercised by our state executives we would be affording a practice in which the truly important measures would as in Europe take on the character of government bills.

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[13] Extra-legally various other means of controlling the attention given various measures have developed. The legislative party caucas is often important in this work. The standing committees act as sifting agencies, several state legislatures have joint finance committees which act as general revising authorities for money bills and the use of special informal "sifting" "steering" or "special orders committees," especially in the last days of legislative sessions is familiar. The mention of these agencies shows, however, that they lack the "responsible" character of the cabinet control in England.

Since the American legislature at present must handle a large number of measures, it is even more important here than in Great Britain that the method of dealing with bills should be as simple and expeditious as is possible without sacrificing proper deliberation. Especially is this true in the state legislatures. Holding sessions as a rule only biennially, these bodies are under great pressure for legislation because of the infrequency of meetings. The experience of Alabama with her quadrennial session is a striking example of what is apt to happen when the legislative session is made too infrequent to fit popular needs.

An even stronger argument in favor of a modernized procedure is furnished by the States which by their constitutions have put a time limit on the length of legislative sessions. These provisions cutting down the meetings to periods of from forty to ninety days have produced what may be called legislation by "stopwatch"—one of the least defensible features of our lawmaking. As Governor O'Neal of Alabama declared at the recent governors' conference at Colorado Springs,

> Instead of being a deliberative body charged with the important task of investigating, debating and considering every bill proposed, the legislature became an assembly of men called from private life, entrusted with a vast and important mass of legislation and summarily ordered by a constitutional provision to conclude their work with railroad speed.[14]

In the face of these limitations, state legislatures are confronted by an increasing number of bills and pass an increasing number of laws. The laws passed in our States and territories in the last biennium for which the statues are available, number 23,675 and cover 47,671 pages.

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[14] Pamphlet, *The Distrust of State Legislatures*, E. O'Neal, The Brown Printing Company, Montgomery, Ala., 1913, p. 15. "In an experience with legislatures in Colorado, Oklahoma, and Arizona, I have seen more vicious legislation passed during the rush of the closing day of a limited legislature than during all the rest of the session."—L. F. Swetting, Clerk of the House of Representatives of Arizona.

To demand that such an amount of legislation be considered as carefully as should be in the time now devoted to it, is to set a task beyond human accomplishment. When in addition the work is attempted under procedure of antiquated character another element is added which must contribute to the crudity of our statutes.

To insist that the "legislative mill" shall dispose of an increasing grist in a limited time is bad enough in itself. To require it to do this work by antiquated methods means that the speed must be greater and the burrs must be set to grind coarser with the inevitable decline in the character of the product. Time consuming steps in the passing of legislation may prove quite as effective a bar to good law making as defective methods of framing the measures.

To attempt to outline a system of procedure which shall insure the maximum saving of time without sacrificing deliberation is beyond the scope of this paper. Only some of the simpler and obvious changes which should be considered are pointed out. In some States these involve constitutional amendments, in others only modifications in legislative practice.

INTRODUCTION

The formalities which once surrounded the introduction of bills no longer consume much time in our state legislatures.[15] No effective machinery has developed to counteract the freedom of initiative in presenting measures.[16]

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[15] Bills are still introduced on motion in North Carolina but encounter at that stage "very little opposition."—J. Bryan Grimes, Secretary of State of North Carolina. In this connection see *Rules of the House of Representatives of Massachusetts,* Rule 40. In New Jersey "All bills are introduced on leave."—M. F. Phillips, Clerk of House of Assembly.

[16] In Ohio there are no restrictions on the number of bills which a member may introduce nor on the time when this may occur.—J. R. Cassidy, Clerk of the House of Representatives.

Similar: Florida.—J. G. Kellum, Chief Clerk of the House of Representatives.

Minnesota.—Oscar Arneson, Chief Clerk of the House of Representatives.

In Minnesota a constitutional provision forbids the introduction of bills within twenty days of the close of the session unless executive permission is given. In 1913 the house added another ten days, bills being then introduced only by permission of the rules committee. Executive permission was easy to secure, however, and the rule therefore had little effect.—Oscar Arneson, Chief Clerk of the House of Representatives of Minnesota.

In Pennsylvania a resolution limiting the time when introduction of bills shall

Even the formal presentation of measures from the floor can very properly be dispensed with as is already done in a number of States,[17] though the privilege of offering amendments in this way probably should be retained.

READINGS

It is seriously to be questioned whether the general requirement of three readings is longer defensible except so far as they occur by title to mark actual stages in the debate. The reading by paragraphs in committee of the whole as is done in the national house of representatives may still be defended. Where the committee of the whole is not used a reading by paragraphs especially in the case of money bills is perhaps necessary, but any reading at length is apt to consume time which the

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cease is usually adopted.—Jas. N. Moore, Director of Legislative Reference Bureau.

In Montana by legislative rule no appropriation bills are introduced after fortieth day except by unanimous consent. No restriction on other bills. May even be introduced on last day of session.—C. Z. Pond, Chief Clerk 13th Legislative Assembly.

In New Hampshire introduction by members limited to first three weeks but committees may introduce at any time. The rule is only a weak check in practice. —H. M. Young, Clerk of the House of Representatives.

In Vermont rules "have always provided that no bill shall be introduced . . . . after the first Tuesday in November" but the time is frequently extended and committee bills may be introduced at any time.—H. A. Block, Clerk of the House of Representatives.

In South Dakota the members bills are limited, those of committees not.—W. Burden, Chief Clerk of the House of Representatives.

In Iowa the introduction of bills by members ends three or four weeks before contemplated adjournment, but committees may introduce thereafter.—A. C. Gustafson, Chief Clerk of the House of Representatives.

In Arizona in the first regular and three special sessions held since statehood "a common agreement was reached that no bills were to be introduced after a certain date usually fixed ten to fifteen days before the close of the session."—L. F. Sweeting, Clerk of the House of Representatives.

In Colorado "Bills are introduced only during the first thirty days of the session."—Clerk of the House of Representatives of Colorado.

In Illinois a time limit put on introduction of bills but could be introduced thereafter if no objection. In practice "Unanimous consent was always given."—Wm. McKinley, Speaker of the House of Representatives of Illinois.

[17] North Carolina. Bills dropped into a box on the speaker's desk which "at the proper time is opened . . . . and the bills are read before the houses by the clerk."—J. Bryan Grimes, Secretary of State of North Carolina.

Similar use of a "bill box" in New York; *Rules of the Assembly*, 1913, Rule 6, par. 1.

members use only in conversation, reading papers, or writing letters home. The large number of members who during the reading of long bills in the average state legislature retire to the lobbies is of itself evidence enough of the lack of real purpose of this stage. The time consumed could much better be spent in consideration of measures in committees.

Many of our state legislatures provide for two readings immediately after introduction and before commitment. Even when these are by title only the amount of time consumed is not inconsiderable. In States where bills number from two to four thousand and in which the practice obtains of making the title almost an abstract of the bill, this stage must consume in total at least several days of the legislative session. Where the constitution does not forbid it there seems to be no good reason why the first "reading" should not be changed to a formal printing of the title in the journal, as is done in the national house of representatives. The second reading could be merged with the announcement of the bill in committee of the whole or when it first comes up for debate[18] in the house, the period at which amendments should normally be introduced. Third reading could in the same way be merged with the announcement of the bill previous to the debate and vote on final passage.[19] Constitutional rules[20] and well established precedents interfere in many States with the adoption of this standard. In others practices have been introduced which are far from observing the spirit of the constitutions. In Minnesota, for example, the constitution requires:

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[18] This is the practice for example in New York. Rules of the Assembly of the State of New York (1913), Rule 5.

[19] The practice found in many states by which a bill is read twice by title before commitment, announced when it comes up for the first debate (often known as the report stage) and when up on third reading is indefensible. It amounts in practice to four readings.

[20] Reading requirements in the state constitutions. Bills must be read.

Alabama (1901). "Immediately before signing" unless dispensed with by two-thirds vote. 66. "On three different days in each house" and at final passage at length. 63.

Arizona (1910). "By sections on three different days" unless dispensed with by two-thirds vote but on final passage reading at length "shall in no case be dispensed with." Art. 4, p. 2, sec. 12.

Arkansas (1874). "At length, on three different days, in each house; unless the rules be suspended by two-thirds of the house when the same may be read a second or third time on the same day." 5, 22.

California (1879). "On three several days in each house" unless dispensed with by two-thirds vote," "and on the final passage of all bills they shall be read at length." 4, 15.

Colorado (1876). "At length on three different days in each house." 5, 22. Titles are read after passage before presiding officer signs. 5, 26.

Connecticut (1818). No provisions.

Delaware (1897). No provisions.

Florida (1885). "By sections on three several days in each house" unless in emergency suspended by two-thirds vote "but the reading of a bill by sections on its final passage shall in no case be dispensed with. 3, 17. By amendment of 1896 first reading is by title unless one-third of members desire reading by sections. 3, 17.

Georgia (1877). Every bill "shall be read three times and on three separate days, in each house, unless in case of actual invasion or insurrection. 3, 7, 7. Amended 1898. First and second reading of each local bill and bank and railroad charters in each House shall consist of the reading of the title only, unless said bill is ordered to be engrossed."

Idaho (1889). Bills read "on three several days in each house," unless dispensed with by two-thirds vote. "On the final passage . . . . they shall be read at length section by section." 3, 15.

Illinois (1870). "Every bill shall be read at large on three different days in each house." 4, 13.

Indiana (1851). "Every bill shall be read by sections on three several days in each house" "unless in emergency suspended by two-thirds vote," "but the reading . . . . on final passage shall in no case be dispensed with." 4, 18.

Iowa (1857). Section 3, 17, speaks of "last reading" but no further provisions as to this stage.

Kansas (1859). "On three separate days in each house" unless dispensed with by two-thirds vote "but the reading of the bill by sections on its final passage shall in no case be dispensed with." 2, 15.

Kentucky (1890). "Every bill shall be read at length on three different days in each house" but second and third may be dispensed with by majority vote of all members elected. 46.

Louisiana (1898). "On three different days in each house" and "once in full" except bills revising statutes or codes. 39. Title read or if requested by five members entire bill before being signed by presiding officer after passage by both houses. 41.

Maine (1819). No provisions.

Maryland (1867). "On three different days . . . . in each house" unless dispensed with by two-thirds of members elected. 3, 27.

Massachusetts (1780). No provisions.

Michigan (1908). "Every bill shall be read three times in each house before the final passage thereof." 5, 23.

Minnesota (1857). "On three different days in each separate house" unless dispensed with by two-thirds of the house but "no bill shall be passed by either house until it shall have been previously read twice at length." 4, 20.

Mississippi (1890). "On three different days in each house" unless dispensed with by two-thirds of the house. Each bill "must be read in full immediately before the vote on its final passage." Before signing any bill passed the pre-

Every bill shall be read on three different days in each separate house unless in case of urgency two-thirds of the house where each bill is de-

siding officer must have the title read and on demand of any member the entire bill. 59.

Missouri (1875). "Every bill shall be read on three different days in each house." 4, 26. After passage but before presiding officer signs the bill is read at length. 4, 37.

Montana (1889). No provisions.

Nebraska (1875). "At large on three different days in each house." 3, 11.

Nevada (1864). "By sections on three several days in each house" unless in emergency suspended by two-thirds of the house "but the reading of a bill by sections on its final passage shall in no case be dispensed with." 4, 18.

New Hampshire (1912). No provisions.

New Jersey (1844). "Three times in each house." 4, 4, 6. In practice bills are read at large only on special request.—M. F. Phillips, Clerk of House of Assembly.

New Mexico (1910). "Three different times in each house, not more than two of which readings shall be on the same day, and the third of which shall be in full." Exceptions made of bills for public peace, health and safety; revisions and codifications. 4, 15.

New York (1894). Sec. 3, 15, speaks of a last reading.

North Carolina (1876). Money bills must be "read three several times in each House . . . . and passed three several readings . . . . on three different days." 2, 14.

North Dakota (1889). "Three several times but the first and second readings only may be upon the same day. . . . The first and third readings shall be at length." 63.

Ohio (1913). "Every bill shall be fully and distinctly read on three different days" unless in case of urgency suspended by three-fourths of house. 2, 16.

Oklahoma (1907). "On three different days in each house" and "on its final passage . . . . at length." After passage read at length before officer signs unless dispensed with by two-thirds of a quorum. 5, 34 and 35.

Oregon (1857). "By sections on three several days in each house" unless in cases of urgency suspended by two-thirds of the house. "But reading of a bill by sections on its final passage shall in no case be dispensed with." 4, 19.

Pennsylvania (1873). "At length on three different days in each house." 3, 4.

Rhode Island (1842). No provisions.

South Carolina (1895). "Three times and on three several days in each house." First and third readings may be by title. 3, 18.

South Dakota (1889). "Three several times but first and second . . . . may be on the same day . . . . the first and third readings shall be at length." 3, 17.

Tennessee (1870). Must be "read and passed on three different days in each house." 2, 18.

Texas (1876). "Read on three several days in eachhouse." "In cases of imperative public necessity . . . . four-fifths of the house . . . . may suspend this rule." 3, 32.

pending shall deem it expedient to dispense with this rule *and no bill shall be passed by either house until it shall have been read twice at length.*[21]

In 1858 the question whether these provisions were mandatory was brought before the Supreme Court. Though the act involved was sustained the court declared:

> The requirement to read in each house on three different days is not imperative but is qualified by the permission granted to change the rule by a two-thirds vote in cases of urgency . . . . the latter clause of the section . . . . permits no bill to pass unless read twice at length and no power is given to the legislature to change this rule under any circumstances. . . . . These provisions were intended to be absolute and that the validity of legislation should depend upon a compliance with them.[22]

Yet in practice only the titles of the bills are read. "The rules require bills to be read at length . . . . and the Constitution likewise but this is not complied with" but "the journals show that the readings have been made and declared passed" and "the supposition is that they are read in full."[23]

In Pennsylvania the constitution requires that "Every bill shall be

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Utah (1895). "No bill . . . . shall be passed except . . . . after it has been read three times." 6, 22.

Vermont (1793). No provisions.

Virginia (1902). "Read at length on three different calendar days in each house." But does not apply in emergencies and in case of codifications if four-fifths of members voting dispense with rule. 50.

Washington (1889). No provisions.

West Virginia (1872). "Fully and distinctly read on three different days in each house unless in case of urgency" dispensed with by four-fifths vote of those present but engrossed bill must be read in full. 6, 29.

Wisconsin (1848). No provisions.

Wyoming (1889). No provisions.

[21] Art. iv, sec. 20. Italics mine.

[22] Board of supervisors of Ramsey County vs. Edward Heenan, 2 Minn. 330 (1858) (dictum) at pp. 334–35.

[23] Oscar Arneson, Chief Clerk of the House of Representatives of Minnesota. "The appropriation bills are the only bills read by sections and in full by reason of the fact that usually so many amendments are offered." A number of States follow practices little less remarkable.

In Ohio for example (1913 Ohio Art. 2, sec. 16), the constitution requires "Every bill shall be fully and distinctly read on three different days unless in case of urgency three-fourths of the house in which it shall be pending shall dispense with the rule." This by no means reflects practice. "Bills are rarely read three times in full." In a great many cases the constitutional rule is dispensed with by a three-fourths vote, "by a blanket motion covering all bills on the calendar at the . . . . stage . . . . under consideration" and even where this is read at length on three different days in each house." In practice it is reported that the rule "is complied with but of course certain bills to which there are no objections or amendments are read by the clerk at a very rapid rate."[24] If the rule was conscientiously lived up to it would have necessitated in 1911 the reading by the clerk of each house for the

not done if the bill is long "the reading clerk reads only a paragraph here and there."—J. R. Cassidy, Clerk of the House of Representatives of Ohio.

A similar decline of importance on the requirements concerning readings is illustrated by the practice in North Carolina. The constitution requires (1876 N. C. 2, 14) that all money bills "Shall have been read three several times in each house of the general assembly and passed three several readings which readings shall have been on three different days and agreed to by each house respectively." In practice the first reading is usually passed as a matter of form though it may be debated even then, and all readings are by title. Bills which do not make appropriations or levy taxes, especially local measures often pass all three readings on the same day.—J. Bryan Grimes, Secretary of State.

In Florida all bills are required to be read twice unless the rule is dispensed with by two-thirds vote. This is generally done. All are read by sections once. "It is a waste of time and some members use it to cause as much delay in legislation as possible."—J. G. Kellum, Chief Clerk of the House of Representatives of Florida.

In Arizona the constitution requires three readings by sections (Const. Ariz., 1910, art. 4, pt. 2, sec. 12) but the first two readings may be by title if two-thirds of either house vote that it is necessary "in case of emergency." An attempt to live up to the spirit of the rule was made in the first session following the grant of statehood. "After several long bills had been introduced and taken up from one hour and a half to two hours on first and second readings in full the provisions . . . . were referred to the attorney general." He gave "an opinion that allowed those provisions . . . . to practically be killed by inserting . . . . (a) clause in the journal" that it was expedient that sec. 12, art. iv, of the constitution relating to the reading of bills by sections on first and second reading be dispensed with. "From about two weeks after the beginning of the regular session this method was followed with all bills."—L. F. Sweeting, Clerk of the House of Representatives of Arizona.

[24] James N. Moore, Director of the Legislative Reference Bureau of Pennsylvania.

In Colorado the clerk of the house reports that "The practice of having three readings is observed in letter and spirit in our General Assembly."

In Illinois the speaker of the house, reports "I do not believe that the present system of reading of bills by title or at large serves any useful purpose . . . it takes a lot of . . . . time and it is seldom, if ever, that any objection is raised." "Of course under our present constitution this must be done, but very often an hour and sometimes two or three hours are consumed in the reading of a bill on second and third reading that no member listens to." "We not only attempt to actually follow out the clauses of our constitution but do as a matter of fact follow out to the letter these clauses."—Wm. McKinley, Speaker of the House of Representatives.

laws passed, not to count the measures which failed of passage; of a volume of 3381 pages. Even if the clerk always reads "at a very rapid rate" such a rule wastes a large amount of time.

COMMITMENT

The formal action of commitment also might disappear from the proceedings of the house by having the commitment desired endorsed on the bill as is done in the house of representatives with private bills or could be left to the speaker, with a retention of the power of the members to move for a change of commitment. This would represent no overthrow of actual practice in many states since the commitments are often made now from an unofficial list made out by the speaker in conference with the authors of the bills before they are formally presented. The only difference would be that the members' opportunity to move change of reference would first arise when the reference appeared in the journal rather than on the announcement of reference by the speaker. In some States this would necessitate a change of practice as to publication of the journals as will be shown later.

The handling of bills in committee involves a number of important questions of practice. The committees themselves often do not fit the economic and social needs of the State. They are often too large; members usually serve on too many committees. In the lower house in Illinois, for example, there are sixty-nine standing committees some with as many as forty-four members. There are few with less than fifteen and the average member serves on over twelve committees. Most of the work in the last session of the legislature was done by two large committees of approximately forty members each.[25]

Committee hearings should be public and advertised sufficiently to give reasonable notice of their time and place. The practice of allowing executive sessions of committees, especially in States which do not insist that all bills be reported back to the houses, is at least questionable. Probably all committee votes should be recorded and reported back and greater leeway allowed for minority reports.

AMENDMENTS

The practice as to the period when amendments may be offered from the floor is diverse and in many States indefensible. No effective method has been devised by which a bill can be given proper consideration without two opportunities for debate, one for the consideration of amendments and one for the debate on the merits. This opportunity for amendment should come normally at second reading or when reported from committee.

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[25] Wm. McKinley, Speaker of the House of Representatives.

In at least one State bills may be amended on first reading[26] and many of the States still allow the introduction of amendments on third reading[27] or as some phrase it, up to final passage. This practice is indefensible. The danger it involves is recognized in some States by constitutional provisions requiring that the vote be on the printed bill, in other States the rules of the houses establish the same standard. The federal senate still allows amendments to be offered on third reading. The result is that the measure actually passed is often never put in printed form for action.[28]

The danger of this method is self evident. Innocent mistakes by the clerk in introducing the amendments may disfigure or defeat the measure and the practice opens up an avenue for corrupt influences to defeat the intent of the legislature.[29]

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[26] North Carolina.—J. Bryan Grimes, Secretary of State.

[27] North Carolina.

In Ohio formerly all debate and amendments took place on third reading.—John R. Cassidy, Clerk of the House of Representatives.

In Iowa debate is allowed only "in committee and upon the third reading of the bill." The amendments are inserted in pen and ink.—A. G. Gustafson, Clerk of the House of Representatives.

In Minnesota it occurs only in committee of the whole and final passage; as a rule amendments occur only in committee of the whole.—Oscar Arneson, Chief Clerk of the House of Representatives.

In Rhode Island debate may occur only on final consideration and amendments may be made up to the taking of the vote.—C. H. Howland, Recording Clerk of the House of Representatives.

In Florida amendments may be introduced when the bill is on final passage but must be favored by a two-third vote to become part of the bill.—J. G. Kellum, Chief Clerk of the House of Representatives of Florida.

An example of good practice as to the stages at which bills may be amended is found in *Rules of the House of Representatives of Ohio,* revised February 14, 1913, Rules 53–62.

In New Jersey there is "No opportunity for debate until bill is in third reading and final passage" but amendments may be introduced on second reading.—M. F. Phillips, Clerk of the House of Assembly.

[28] The senate practice of amendment after engrossment is declared in Jefferson's *Manual* to be "an irregular and dangerous practice because in this way the paper which passes the senate has never been seen in the senate. In reducing numerous difficult and illegible amendments into the text the secretary may, with the most innocent intentions commit errors which can never again be corrected." *House Manual and Digest,* 62d Congress, 2d sess., 421.

Good practice seems to necessitate that there be two opportunities for debate on only one of which amendment should be allowed. If after this stage has passed amendment still seems advisable the only safe procedure is to recommit the bill and let it pass the preceding stage again. The measure as finally acted upon should be clear cut and so far as possible beyond the power of any subordinate authority to change. This means that the standard insisted upon by some state constitutions, that the bill be printed before third reading and unamendable at that stage is the only one consistent with safety.

PRINTING OF BILLS AND AMENDMENTS

This leads naturally to a consideration of the practice as to the printing of bills. In some States this occurs as a matter of course on introduction.[30] Other States print measures only when "of general public interest"[31] or "when authorized by the house"[32] or "favorably reported from committees."[33] Greater publicity of legislative action is assured

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[29] An illustration of the looseness possible under of this practice came to the writer's attention in the legislative session of 1913. In a late night session a good roads bill was under consideration. It had been subjected to numerous amendments in committee and on second reading, all of which had been incorporated in the printed bill which was upon third reading stage. Several additional minor amendments were introduced and adopted by being sent to the clerk's desk and adopted without being incorporated in the printed bill. The measure then went to passage and the vote was declared. One of the friends of the bill then rose and pointed out that in one clause the units granted power to issue bonds for road improvements were described as "counties" while the intent was to give this power to both counties and towns. The failure to enter both might defeat part of the object of the measure. The house was evidently impatient for adjournment and the Speaker suggested that the member point out the change needed to the clerk at a later time. In the bill as it appears in the session laws both "towns and counties" are mentioned in each clause where they should appear. Perhaps no rule can be relied upon to check a house acting so irregularly, but the expedient of seeing the clerk to modify the measure actually passed has sinister possibilities.

[30] For example, Wisconsin, Ohio.

[31] North Carolina.—J. Bryan Grimes, Secretary of State. Even this printing occurs only by special order of the house or senate.

[32] J. G. Kellum, Chief Clerk of the House of Representatives of Florida.

[33] Thus in Minnesota. Amendments are not printed except on Special orders.—Oscar Arneson, Chief Clerk of the House of Representatives of Minnesota.

Amendments are usually not printed in Rhode Island. "There are few bills of any importance in our practice that do not come from committee in substitute where all bills are printed. They can thus be more easily brought to attention through the press and public opinion allowed to exercise a corrective influence on legislative action. The adoption of this standard too helps in the saving of time by lessening the force of whatever argument can still be made for the reading of a bill at large or by title before commitment. No bill should be finally passed without being printed.

The practice as to printing amendments is quite as various. The constitutions of some States practically require that all should be printed, in others they are printed by legislative rule, in still others "ordinarily only the original bill is printed."[34]

THE JOURNAL

No agency used in legislation, the accuracy of which is so important, is given so little attention as the journal. Approximately one half of the States find in it evidence to determine whether that which has the form of law, is law. Its record may show that the constitutional rules as to procedure were not observed in the passage of measures and that these are therefore void. Even its silence as to certain formalities may in some States overthrow a statute. The exactness of so important a record we should expect to find guarded with unusual care. Such a standard is found all too seldom. Some expert machinery for reviewing the record with the care which the importance of the subject demands might often be adopted with advantage.

In some States the constitutions merely direct that journals be kept, in others it is required that they be published either at the end of the sessions,[35] or from time to time, or daily. In some States they are in prac-

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form."—C. H. Howland, Recording Clerk of the House of Representatives of Rhode Island. Some constitutions require printing before the vote on final passage.

[34] North Carolina.—J. Bryan Grimes, Secretary of State.

Not printed in Ohio except in special cases.—John R. Cassidy, Clerk of the House of Representatives of Ohio.

In Illinois all amendments adopted must before final passage be printed. Act would otherwise be unconstitutional. In practice all bills and amendments are printed before they are acted upon by the members—Wm. McKinley, Speaker of the House of Representatives of Illinois.

[35] Alabama (1901), 55. Shall publish journal "immediately after . . . . adjournment."

Arizona (1910), 4, 2, 10. "Each house shall keep a journal."

Arkansas (1874), 5, 12. Each house shall "from time to time publish the journal."

California (1879), 4, 10. "Each house shall keep a journal and publish the same."

Colorado, (1876), 5, 13. "Each house shall keep a journal . . . . and may in its discretion from time to time publish the same."

Connecticut (1818), 3, 9. "Each house shall keep a journal . . . . and publish the same when required by one-fifth of its members."

Delaware (1897), 2, 10. "Each house shall keep a journal . . . . and publish the same immediately after every session."

Florida (1885), 3, 12. "Each house shall keep a journal."

Georgia (1877), 3, 7, 4 and 5. Each house shall publish the journal "immediately after its adjournment." "The original journal shall be preserved after publication in the office of the secretary of state, but there shall be no other record thereof."

Idaho (1889), 3, 13. "Each house shall keep a journal of its proceedings."

Illinois (1870), 4, 10. "Each house shall keep a journal of its proceedings which shall be published."

Indiana (1851), 4, 12. "Each house shall keep a journal of its proceedings and publish the same."

Iowa (1857), 3, 9. "Each house shall . . . . keep a journal of its proceedings and publish the same."

Kansas (1859), 2, 10. "Each house shall keep and publish a journal of its proceedings."

Kentucky (1890), 40. Shall publish journal "daily."

Louisana (1898), 30. Journal shall be published "immediately after the close of the session, when practicable, the minutes of each day's session shall be printed and placed in the hands of the members on the day following." Original after publication is preserved in the office of the secretary of state.

Maine (1819), 4, 3, 5. Journal to be published "from time to time."

Maryland (1867), 3, 22. "Each house shall keep a journal . . . . and cause the same to be published.

Massachusetts (1780). No provisions.

Michigan (1908), 5, 16. "Each house shall keep a journal . . . . and publish the same."

Minnesota (1857), 4, 5. Each house "shall keep journals of their proceedings and from time to time publish the same."

Mississippi (1890), 55. "Both houses shall from time to time publish the journals of their proceedings."

Missouri (1875), 4, 42. "Each house shall from time to time publish a journal of its proceedings."

Montana (1889), 5, 12. "Each house shall keep a journal of its proceedings and may in its discretion from time to time publish the same."

Nebraska (1875), 3, 8. "Each house shall keep a journal of its proceedings and publish them." (sic.)

Nevada (1864), 4, 14. "Each house shall keep a journal of its own proceedings which shall be published."

New Hampshire (1912), 2, 23. "Immediately after every adjournment or prorogation."

New Jersey (1844), 4, 4, 4. "Each house shall keep a journal of its proceedings and from time to time publish the same."

tice "never printed until several months after the adjournment" and "as a consequence a great many bills are passed improperly and are therefore void."[36]

New Mexico (1910), 4, 12. "Each house shall keep a journal of its proceedings . . . . The original thereof shall be filed with the secretary of state at the close of the session and shall be printed and published under his authority."

New York (1894), 3, 11. "Each house shall keep a journal of its proceedings and publish the same."

North Carolina (1876), 2, 16. "Shall be printed and made public immediately after the adjournment of the general assembly."

North Dakota (1889), 49. "Each house shall keep a journal of its proceedings."

Ohio (1913), 2, 9. "Each house shall keep a correct journal of its proceedings."

Oklahoma (1907), 5, 30. "Each house shall keep a journal of its proceedings and from time to time publish the same."

Oregon (1857), 4, 13. "Each house shall keep a journal of its proceedings."

Pennsylvania (1873), 2, 12. "Each house shall keep a journal of its proceedings and from time to time publish the same."

Rhode Island (1842), 4, 8. "Each house shall keep a journal of its proceedings." "No printing except in the daily official paper."—C. H. Howland, Recording Clerk of the House of Representatives.

South Carolina (1895), 3, 22. "Immediately after adjournment."

South Dakota (1889), 3, 13. "Each house shall keep a journal of its proceedings and publish the same from time to time."

Tennessee (1870), 2, 21. "Each house shall keep a journal of its proceedings and publish it."

Texas (1876), 3, 12. "Each house shall keep a journal of its proceedings and publish the same."

Utah (1895), 6, 14. "Each house shall keep a journal of its proceedings which except in case of executive sessions shall be published."

Vermont (1793), 2, 14. "The votes and proceedings . . . . shall be printed (when one-third of the members think it necessary) as soon as convenient after the end of each session."

Virginia (1902), 49. "Each house shall keep a journal of its proceedings which shall be published from time to time."

Washington (1889). No provision, though a journal is mentioned in connection with yeas and nays. 2, 21, and 22.

West Virginia (1872), 6, 41. "Each house shall keep a journal of its proceedings and cause the same to be published from time to time."

Wisconsin (1848), 4, 10. Each house shall keep a journal of its proceedings and publish the same.

Wyoming (1889), 3, 13. "Each house shall keep a journal . . . . and may in its discretion from time to time publish the same."

[36] J. Bryan Grimes, Secretary of State of North Carolina.

In Rhode Island the official journal is typewritten in a book from the original notes of the clerk. The original roll call sheets are inserted. "They do not look pretty but they are the 'real thing'".—C. H. Howland, Recording Clerk, House of Representatives.

Frequently the rules require that the journal be read daily, the object being to furnish an opportunity for members to correct the record. In practice this standard is nowhere conscientiously observed[37] and even if it were the efficacy of the check would only be partial. In Minnesota, if the journal is read at all, "the clerk reads a few lines here and there" and the members are relied upon to read "the printed journal on their desks." In Rhode Island it is reported "The clerk jumps through it because the printed journal is in every member's hand."[38] Arizona frankly puts reliance on the printed record without the formality of reading, the members being given an opportunity to make corrections.

Daily printing accompanied by practices of the latter sort should at least be insisted upon. Indeed properly managed the journal may be made not only a valuable record for the use of the legislature and the courts, but also an effective agency for publicity, a purpose for which it is coming into favor in a number of States.

An infallible way to remove the possible abuses connected with the journal, it may be we can not secure, but the present method of its keeping and criticism can easily be improved.

VOTING

Most frequent of all the constitutional regulations of procedure are those relating to voting. Like some of the other rules intended to insure

Many States follow substantially this method. Even where the journal is printed in a bound volume this "official" journal is often a typewritten copy. Thus in Ohio.—J. R. Cassidy, Clerk of the House of Representatives.

In the first two sessions in Arizona the journal was kept in a loose leaf book. It is now printed daily. It was formerly read daily; it is now put on the member's desks in "galley" form and they point out corrections to the clerk after which it is advanced to its final printing.—L. F. Sweeting, Clerk of the House of Representatives.

In New Jersey all votes are pasted in.—M. F. Phillips, Clerk of House of Assembly.

[37] "In the actual practice the journal was seldom if ever read in full. A motion usually was made . . . . upon the commencing of the readings . . . . that further reading be dispensed with, and the members invariably allowed this motion to prevail."—Wm. McKinley, Speaker of the House of Representatives of Illinois. This seems to be the standard followed in most States.

[38] Oscar Arneson, Chief Clerk of the House of Representatives of Minnesota. Similar practice in Florida.—J. H. Kellum, Chief Clerk of the House of Representatives of Florida.

C. H. Howland, Recording Clerk of the House of Representatives, Rhode Island.

deliberation, they survive in many States chiefly as obstructions to the business of the houses, in others subterfuges have made their observance purely perfunctory. Probably no more startling extra-legal amendments of our constitutions are to be found. Except where votes are by roll call the practice is substantially uniform. Roll calls are subject to a wide variation of constitutional and procedural rules.[39]

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[39] State constitutional requirements as to recording yeas and nays.

Alabama (1901), 55. "At the request of one tenth of the members present."

Arizona (1910), 4, 2, 10. "At the request of two members."

Arkansas (1874), 5, 12. "At the desire of any five members." 5, 22. "Always taken on final passage of any bill."

California (1879), 4, 10. "At the desire of any three members." 4, 15. Always taken on final passage.

Colorado (1876), 5, 13. "At the desire of any two members." 5, 22. Always taken on final passage.

Connecticut (1818), 3, 9. "At the desire of one-fifth of those present."

Delaware (1897), 2,10. "At the desire of any member." Always taken on final passage.

Florida (1885), 3,12. "At the desire of any five members." 3, 17. Always taken on final passage.

Georgia (1877), 3, 7, 6. "At the desire of one-fifth of the members present." 3, 7, 12. Always taken on final passage of money bills. 3, 7, 21. Always taken where constitution requires a two-thirds vote.

Idaho (1889), 3, 13. "At the request of any three members present." 3, 15. Always taken on final passage.

Illinois (1870), 4, 10. "In the senate at the request of two members and in the house at the request of five members."

Indiana (1851), 4, 12. "At the request of any two members" except on adjournment which requires request of one-tenth. 4, 18. Always taken on final passage.

Iowa (1857), 3, 10. "At the desire of any two members present." 3, 17. Always taken on final passage.

Kansas (1859), 2, 10. Always taken on final passage.

Kentucky (1890), 40. "At the desire of any two members elected." 46. Always taken on final passage.

Louisiana (1898), 36. "At the desire of one fifth of the members elected." 39. Always taken on final passage.

Maine (1819), 4, 3, 5. "At the desire of one-fifth of those present."

Maryland (1867), 3, 22. "At the call of any five . . . . in the House of Delegates or one in the senate." 3, 28. Always taken on final passage.

Massachusetts (1780). No provisions.

Michigan (1908), 5, 16. "At the request of one-fifth of the members present." 5, 23. Always taken on final passage.

Minnesota (1857), 4, 13. Always taken on final passage.

Mississippi (1890), 55. "At the request of one tenth of the members present." Always taken on final passage.

Provision is regularly made in one way or the other for the recording of votes on the demand of a certain precentage of the membership. In most states recording of votes is required in all cases of final passage of bills or unless exceptions are made by votes carried by large majorities.

Missouri (1875), 4, 42. "At the motion of any two members." 4, 31. Always taken on final passage.

Montana (1889), 5, 12. "At the request of any two members." 5, 24. Always taken on final passage.

Nebraska (1875), 3, 8. "At the desire of any two members." 3, 10. Always taken on final passage.

Nevada (1864), 4, 14. "At the desire of any three members present." 4, 18. Always taken on final passage.

New Hampshire (1912), 2, 23. "Upon motion made by any one member."

New Jersey (1844), 4, 4, 4. "At the desire of one-fifth of those present." 4, 4, 6. Always taken on final pasage.

New Mexico (1910), 4, 12. "At the request of one-fifth of the members present." 4, 17. Always taken on final passage.

New York (1894), 3, 15. Always upon final passage. 3, 25. Taken on money bills.

North Carolina (1876), 2, 26. "Upon motion made and seconded in either house by one fifth of the members present." 2, 14. Always taken on second and third reading.

North Dakota (1889), 49. "At the request of one-sixth of those present." 65. Always taken on final passage.

Ohio (1913), 2, 9. "At the desire of any two members and on the passage of every bill."

Oklahoma (1907), 5, 30. "At the desire of one-fifteenth of those present." 5, 35. Always taken on final passage.

Oregon (1857), 4, 13. "At the request of any two members." 4, 19. Always taken on final passage.

Pennsylvania (1857), 2, 12. "At the desire of any two" (members). 3, 4. Always taken on final passage.

Rhode Island (1842), 4, 8. "At the desire of one-fifth of those present."

South Carolina (1895), 3, 22. "At the desire of ten members of the house or five members of the senate."

South Dakota (1889), 3, 13. "At the desire of one-sixth of those present." 3, 18. Always taken upon final passage.

Tennessee (1870), 2, 21. "At the request of any five" members and on final passage of all of general character or making appropriations.

Texas (1876), 3, 12. "At the desire of any three members present."

Utah (1895), 6, 114. "At the request of five members." 6, 22. Always taken on final passage.

Vermont (1793), 2, 14. "When required by any member."

Virginia (1902), 49. "At the desire of one-fifth of those present." 50. Always taken on final passage.

In one State the roll must be called on money bills[40] on both second and third readings. The more rigorous of these constitutional provisions unnecessarily waste time. If a vote on final passage should in any case be an invariable rule, it should probably be in connection with money bills. There is no doubt opportunity for greater abuse by logrolling when bills may pass without recorded votes but if a small number of members can demand a vote for record sufficient protection against such abuses seems to be guaranteed. On the other hand this number should not be too low or the rule will favor filibustering tactics as is now often the case.

The actual observance of the rules requiring aye and nay voting in some of our States indicates the general decline of this expedient as a means of securing real deliberation. Indeed all traditions as to procedure of voting seem to be in process of breaking down. We are perhaps not ready for voting by electric push button, but our present methods at least are unsatisfactory. Take, for example, the evasion of constitutional requirements involved in the socalled "short roll call" practice of New York. The constitution requires that the question upon the final passage of a bill shall be taken immediately after third reading "and the yeas and nays entered on the journal."[41] In the case of money bills "the questions shall be taken by yeas and nays which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.[42]

In practice the "short roll call" is used to cut down the time of passing bills. The clerk mumbles through a dozen or so names on the list and then announces that the bill has been carried by a vote given out approximately as the parties are divided in the house. Members who wish may transfer their votes from the side on which they would normally be announced. The entries on the journal are made by inserting the party division often with minor modifications. At a recent session, it is re-

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Washington (1889), 2, 21. "On the demand of one-sixth of the members present." 2, 22. Always taken upon final passage.

West Virginia (1872), 6, 41. "If called for by one-tenth of those present."

Wisconsin (1848), 4,20. "At the requestof one-sixth of those present."

Wyoming (1889), 3, 13. "At the request of any two members." 3, 25. Always taken on final passage.

[40] North Carolina.

[41] Constitution of New York, 1894; 3, 15.

[42] Constitution of New York, 1894; 3, 25.

ported, measures were passed by the assembly in this way, with only half a dozen members present, which authorized expenditure of almost \$2,000,000.[43]

The subterfuge adopted in North Carolina is quite as interesting. There the constitution requires that money bills must be voted on by yeas and nays on second and third reading and the votes entered on the journal. In practice the rule amounts to little. When a number of bills of this sort are up for consideration they are put on a separate calendar. On the first, the roll is called and those present vote and their names are entered on the journal. On the subsequent measures only a few names are called. "Probably one hundred bills may be passed, upon which the names of not more than one-half dozen members will be called, but the whole number will be recorded as having voted for the bill." Roll calls do not waste time because "the roll is really never called."[44]

This sort of unanimous consent legislation can not be too roundly condemned. In States not holding the enrolled bill final practices of this sort de facto bring them almost to that standard by a wholesale falsification of the journal and defeat of constitutional provisions.

CONCLUSION

Only the more obvious weaknesses found in our legislative procedure have here been pointed out, but enough is said to illustrate that many of its features have become functionless and others show a failure to develop adequate means of meeting situations created by changed legislative conditions. Our methods of passing laws may often need change to quite as great a degree as do the laws themselves, and failure to provide normal means for the first may delay or defeat the latter.

No single system of procedure will fit all States. Some may not need, for example, discussion in committee of the whole, a number use that stage but rarely, in others almost all measures pass through it. Each commonwealth must work out a system for itself. Few have seriously faced the problem. The weaknesses found in the systems employed in almost every State are at once evidence that this element in the improvement of statute law has been neglected and of the degree to which it should claim the attention of the legislatures.

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[43] New York *Evening Post*, November 22, 1913.

[44] J. Bryan Grimes, Secretary of State, North Carolina.

SCIENTIFIC ASSISTANCE IN LAW MAKING

BY HORACE E. FLACK

Director of the Department of Legislative Reference, Baltimore, Md.

There has been much criticism of American legislatures and of the character of laws which they annually produce, but until quite recently little or nothing has been done to remedy the conditions thus criticised. The criticism has been and still is largely destructive, not constructive. A view quite generally held is that we have entirely too much legislation and in order to remedy this, it has been urged that we should have less frequent sessions of the legislature and that these sessions should be limited as to time. An argument advanced against limiting the sessions, that should have considerable weight, however, is that such a limitation would make it practically impossible to secure well considered laws. A careful examination of the statutes of the several States would, no doubt, demonstrate the fact that a short session instead of decreasing the number of laws has actually been the cause of increasing them. The reason for this is that sufficient time is not given to discover the defects of and the objections to many bills which would otherwise be defeated, if time were given for investigation and consideration. Certainly an examination of the laws of Massachusetts, Wisconsin, Illinois and other States which have no limit on the length of the legislative session shows a smaller output of laws than is the case with many of the States which have limited the legislative session to sixty or ninety days.

Granting that there is justification for the criticism that there are too many laws which are either useless or harmful, it is nevertheless a remarkable fact that the legislative product of the several States, when taken as a whole, shows a decided progress and an unmistakable effort to make our laws fit the present economic and industrial conditions of the country. It is all the more remarkable when the difficulties under which the members of our legislatures have to work are taken into consideration. When it is borne in mind that a majority of our legislators have had no previous legislative experience and that they are required to pass upon anywhere from one to two thousand bills within a short session of sixty or ninety days and that no means are afforded them to become acquainted with the facts necessary for the intelligent consideration of these bills, the general merit of the laws speaks well for the common sense of our people. The present method of legislation is purely haphazard and the surprising thing is that our legislation is as good as it is.

England no longer follows this old haphazard system of legislation. In 1869, there was created the office of parliamentary counsel and since that time this official has drafted practically all the bills introduced into Parliament for the Government. There has been a gradual improvement in the British statutes since that time, both as to the content and the form of laws. The official draftsman has not only made it possible to secure technical accuracy but greater clearness. By requiring all important bills to pass through his hands, the danger of having inconsistent and contradictory laws has been obviated, for it is one of his duties to compare any proposed measure with existing law.

No State in this country has an official similar to the parliamentary counsel, though there are a few cases where steps have been taken along this line. For example, in Connecticut, there is an official or clerk to whom every bill favorably acted upon by a committee must, before being reported to the legislature, be submitted for examination. This is the only case, I believe, where there is a statutory provision for compulsory reference in this country but this measure has not proved particularly beneficial from the fact that there is no continuity in office. Governor Baldwin, in a recent message to the legislature, called attention to this fact and urged that the present method of selecting the official for this position should be changed and that a man be selected on account of his qualifications for this work and not on account of his political affiliations and that the tenure be made permanent. New York provides for the appointment of draftsmen by the presiding officers of the legislature, it being the duty of these draftsmen to draft bills at the request of members of the committees. These officials are, no doubt, of great service to the inexperienced members of the legislature but the same objection applies here, since there is no continuity in the office nor do all bills have to be submitted to them.

During the past few years, however, there has been a new departure which has already been productive of good and gives promise of greater results in the future. This departure is the establishment of departments of legislative reference. The Wisconsin department has taken a wider scope than any of the others and has met with better results. It is, of course, realized by all students of legislation and legislative methods that something more than technical accuracy is needed. It is of even greater importance that accurate and sound information should be secured on which to base our laws. It was to solve this problem that Dr. McCarthy conceived the idea of the work of the Wisconsin department of legislative reference and this idea has spread until over twenty States have established such departments and at the present time there are twelve or more similar departments established for cities.

The legislative reference bureaus, both for States and cities, have been in existence for a short time only but during this time, it has been clearly demonstrated that they serve a useful purpose. Only a few of them have been in a position to employ expert draftsmen to aid in the drafting of bills. The chief work of the bureaus has thus far been the collecting, compiling and collating of information on subjects of present or future legislation. These bureaus have, of course, not been able to secure all the information needed, since it is impossible to secure certain kinds of information which should be at the disposal of our legislative bodies. It does not seem possible with the present administrative machinery to collect accurate statistics as to the operation of many of our laws. It would be very desirable to have judicial statistics, both civil and criminal, but we shall probably have to depend on the census bureau or some other national agency to undertake this work. At present, the kind of information collected is confined principally to the laws of other States, court decisions, letters from experts and officials as to the operation of these laws, articles on economic and industrial questions, newspaper clippings, etc. When collected, this information is carefully indexed and frequently digests and compilations are prepared for the use of individuals and committees. In fact, there seems to be an opportunity for even greater usefulness on the part of these bureaus along this line. It is too much to expect members of the legislature, during a brief session, to find time to examine very many laws, treatises, etc., so that it is quite important that accurate and impartial digests and compilations be prepared containing the essential information as gathered from all the sources at hand.

For many years, private interests have been able to secure desired legislation, from the fact that they had gathered information bearing on such legislation and had been able to present it in such a form that the committees and members of the legislature who were without any information on the subject felt a hesitancy in refusing to pass the bills which the interests desired. The following quotation from Dr. McCarthy very aptly describes the situation:

If private forces maintain bureaus of information for representatives, let us have public information bureaus open to private and public interests alike. If it is difficult to get information because of the great variety of subjects now coming before our legislators, the only sensible thing to do is to have experts gather this material. If business interests have excellent lawyers to look after their legislation, the people should secure the same kind of men to help their representatives. If the business interests secure statisticians, engineers and scientific men, the public should do likewise. If great judges and lawyers are constantly working upon the problems of interpretation of laws, surely men of equal ability could well be consulted or retained as the people's representatives in the construction of these laws.[1]

Sir Courtenay Ilbert, at one time parliamentary counsel, recognized the necessity of having information for the proper drafting of any bill. In this connection he says:

> Before beginning to prepare a bill it is essential to master the subject-matter. Where a doubtful question of construction arises, the courts are entitled to consider the previous law and practice, the mischief or defects which the law was intended to remove, and the nature of the remedy proposed. So, before devising a remedy, it is needful to know the existing law and practice, and to have a clear conception of the mischief or defects for which the remedy is required.[2]

To secure the information needed for the content of the laws, it is necessary to have experts who know the kinds of information desired and how to secure it. It requires special study and special training to fit one for this kind of work. It is also very essential that the department be non-partisan and non-political and that there be permanency of tenure. A great advantage is gained by having permanency of tenure, for this makes it possible for the men in charge to become familiar with the subjects which come up for legislation and this enables them to prepare in advance for the sessions of the legislature.

After having secured the information on matters of proposed legislation, it is very essential that experts be employed to put the proposed measures in legal form. Much of the criticism of our courts is due to the fact that they have declared well meaning and often desirable laws unconstitutional on technicalities. Had proper care been taken in drafting the laws, the technical violations of the Constitution would have been removed. Many of the laws are frequently inconsistent and contradictory from the fact that it is the business of no one to call attention to the contradictions. With expert draftsmen connected with the legislative reference departments and with the requirement that before final passage all bills must be referred to them for final revision as to form, many of the present objections would be eliminated. It would not be necessary, of course, for the legislature to follow the report of the experts but it would make it impossible for the legislature to act blindly, as it so often does at present.

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[1] *The Wisconsin Idea*, p. 223.

[2] *Legislative Methods and Forms*, p. 242.

Some of the legislative reference bureaus are already in a position to aid the members of the legislature in the two ways mentioned above; namely, in securing information on which to base the laws and in having draftsmen to draft bills as requested. The Wisconsin department has done more along this line than any other and it seems worth while to give the rules which the department has in force.

RULES FOR THE DRAFTING ROOM

1. No bills will be drafted in the reference room. A separate drafting room and a separate force have been provided.
2. No bill will be drafted, nor amendments prepared, without *specific detailed written instructions* from a member of the legislature. Such instructions must bear the member's signature.
3. The draftsman can make no suggestions as to the contents of the bills. Our work is *merely clerical* and *technical.* We cannot furnish *ideas.*
4. We are not responsible for the *legality* or *constitutionality* of any measures. We are here to do *merely* as *directed.*
5. As this department cannot *introduce* bills or *modify* them after introduction, it is not responsible for the *rules* of the *legislature* or the *numbering* of sections either at the time of *introduction* or on the *final passage.*

In addition to the two ways in which scientific assistance is now being given to the legislatures of one or two of our States, Dr. R. H. Whitten, formerly at the head of the New York legislative reference department, has suggested a third way in which assistance might very profitably be given to members of the legislature. As this suggestion has not as yet been put into practice, it seems worth while to quote him on this point:

> The scientific examination of each proposed measure by one or more men who have expert knowledge in relation to it. For the construction of a house we employ an architect; for the building of a bridge we employ an engineer, but for the drafting of an intricate and technical statute no expert knowledge is deemed essential. This is the height of stupidity. How can a Legislature or legislative committee pretend to consider and pass intelligently on these varied and difficult problems without securing

the carefully considered opinions of disinterested experts? Legislative committees should employ experts of all kinds—engineers, accountants, economists, physicians, actuaries, and in fact specialists of every class who are capable of disinterested scientific investigation. When, for example, a new problem in banking regulation comes up for consideration the sensible course would be for the committee after informing itself in a general way concerning the proposed measure to employ one or more disinterested banking experts to make a thorough investigation of the measure. They would take one month or six months to go over the proposition and consider it in all its phases. They would consider the practical effect of similar legislation in this or other lands. They would consider the probable effects of the regulation, direct and indirect, beneficial and otherwise. They would determine as near as possible how it would work in actual practice, what difficulties it would meet and what changes would be advisable in order to overcome the same. They would probably suggest a draft of a bill that would accomplish the intended result deftly and effectively and without the crudities, evils and unworkable features of the original bill.[3]

In order to make the assistance of the experts employed in collecting information and in drafting bills more effective, it has been suggested that the legislative session be divided into two parts;[4] the first part to be devoted to the organization of the legislature, the appointment of committees and probably the introduction of bills. The legislature would then adjourn for—say a period of six months. During this period, the experts, as well as the committees, would have time in which to gather information and in which properly to prepare bills. During this period, provision could also be made for committee hearings, for at the present time little opportunity is given for hearings before the committees. On the reconvening of the legislature, the reports of the committees could be presented and time for debate given. In this way, bills would be passed during the second part of the session, after full time had been given for investigation and discussion. In 1911, California adopted a constitutional amendment providing for a recess of not less than thirty days after the legislature has been in session for a period of not more than thirty days. After the reassembling of the legislature, no bill can be introduced into either house without the consent of three-fourths of the members thereof, nor can any member introduce more than two bills during the second part of the session. It is too early to say what will be the effect of this amendment, as there has been but one session of the legislature since its adoption, but this departure will be watched with interest.

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[3] "The Spread of Legislation and the Need for Improved Legislative methods." *Proceedings of the Association of Life Insurance Presidents for 1908*, p. 78.

[4] McCarthy, *The Wisconsin Idea*, p. 206, and Ernest Bruncken "Defective Methods of Legislation," *The American Political Science Review*, May, 1909.

What has been said in regard to the need for scientific assistance in aiding the legislatures applies with equal force to the municipal legislative bodies. Recognizing this fact, there was established for the city of Baltimore in 1907 a department of legislative reference. Since that time, Milwaukee, Kansas City, St. Louis, Minneapolis, Chicago, New York, Philadelphia, Toronto, Cincinnati, Oakland and Portland, Oregon, have established municipal reference libraries. The indications are that quite a number of other cities will soon establish similar departments and that the national government itself perceives the need for establishing a central legislative and municipal reference bureau, which can be called upon by all the local departments for assistance in the collection and compilation of information.

After all, very much remains to be done, especially when the great mass of state and municipal legislation is taken into consideration. The outlook for the future, however, is most hopeful and the small beginnings of the Wisconsin department will, no doubt, soon develop along lines which will be helpful and useful.

LEGISLATIVE REFERENCE BUREAUS FOR POLITICAL PARTIES

BY DONALD R. RICHBERG

Director Legislative Reference Bureau, Progressive Party

The establishment of a legislative reference bureau for a political party creates many problems distinct from those arising in state and municipal reference work. In both are found the immediate purpose of improvement in legislative methods and the ultimate purpose of service to the state. But in organization and operation of a party bureau many difficulties must be encountered and results produced for which there are few helpful precedents.

While the conclusions here presented are based upon a few months of pioneering work in the bureau established by the Progressive party they are not to be regarded as an indiscreet commentary upon actual experience alone. We have been fortunate enough to avoid a few pitfalls which should be noted in passing and we have undoubtedly failed to realize many opportunities for greater service than has been given. It is the present intention to consider an ideal bureau under the auspices of a political party of ordinary incoherence.

A political party of today is not an institution of pure philanthropy. It exists partly to serve the state and partly to serve its members. The fervor of its devotion to the public service is sometimes directly proportioned to its remoteness from public office.

For those politicians whose sole interest in a party is in its job-brokerage business the legislative bureau can have little meaning. For them only shyster service could be rendered, which were better left undone. On the other hand those whose sole interest is in the advancement of particular theories of reform may incline to separate the bureau too widely from partisan activity, whereby its support from the party treasury becomes a matter of questionable propriety. It must be remembered that party funds are usually contributed in aid of definite political action rather than for the general uplifting of mankind.

Between the two extremes of unfair partisanship and equally unfair non-partisanship the legislative reference bureau must find, not a ground of compromise but a field of honorable service.

There are three intentions which may be assumed at the outset for a party bureau: (1) to aid in preparing the legislation proposed in the party platform; (2) to promote education of party voters to the needs underlying the declared remedies, thereby solidifying party support of partisan legislative proposals; (3) to assist in the intelligent choice of measures to press and of methods of propaganda. This may eventually result in the determination of party programs on other grounds than mere expediency; or, let us say, in the cultivation of a higher expediency, aiming at party service for a decade rather than party power for a briefer period.

Assuming these intentions the first inquiry is: How shall the bureau be organized? Considering the scarcity of comparative material the present answer will deal largely with the method of organization of the Progressive bureau.

The first step in organization, and one of essential wisdom, was the creation by the national committee of a legislative reference committee, to exercise complete and sole direction of the work. The members of this committee were chosen with the definite intention of distinguishing this activity from that of political organization and included: William Draper Lewis, chairman, Jane Addams, Henry F. Cochems, James R. Garfield, Francis J. Heney, George W. Kirchwey, Ben B. Lindsey, Charles E. Merriam, Gifford Pinchot, Herbert Knox Smith and Walter E. Weyl. It will be observed that the members of this committee, while including present and former public officials are consistently persons more notable for their interest in political principles than for their anxiety for public office. The present director of the bureau was not selected until after April 1 and his assistant in charge of library work not until June 1, so that the bureau has only been a bureau for about six months. Prior to that time it was largely a promise which is still far from realization.

An understanding of the details of administration can perhaps be aided by comparison with the essentials for a state bureau as summarized by Dr. Charles McCarthy in a pamphlet concerning the Wisconsin legislative reference department.

1. The selected library. Here a new principle of selection is necessary. For purposes of comparative study doubtless a library of general legislative reference material would be desirable. But in order that the material may bear that intimate relation to immediate needs which should characterize all the activities of the bureau, more material and fewer subject heads are advisable. The national party platform will form a basis for starting the work. When to this are added as rapidly as possible separate state platform topics and closely allied subjects the collecting force of the bureau will not be embarrassed by leisure hours. Anyone familiar with this work will understand how readily it may be expanded beyond reasonable financial limits in filing expense. Elimination is almost as important a consideration as acquisition.

2. *A trained librarian* is needed and particularly one "with a liberal education, who is original, not stiff, who can meet an emergency, and who is tactful as well." Fortunately it was possible to obtain from the Wisconsin library the apparent original of this description, as assistant to the director of the Progressive bureau.

3. *The material must be accessible.* In addition to this requirement material in a party bureau which is much in demand must be mimeographed or printed so as to be available in considerable quantities for distribution.

4. *Indexing and collection of bills.* This is peculiarly difficult on account of the simultaneous sessions of so many legislatures—thirty-eight having been in session during the past year. To obtain prompt and useful responses to requests it is necessary to establish reliable correspondents in each state; either legislators or party officials who will send most of the material without request and will answer inquiries with reasonable speed. The establishment of these connections requires patient invocation of vast silences, shameless imposition upon the conscientious few and an abiding faith in the power of the written appeal to compel gratuitous labor.

5. *Compilation of records* of votes, vetoes, messages, platforms and like material is as important as the collection of bills and attended with even greater difficulties.

6. *Digests of laws, cases and opinions,* within the subject limitations are of course essential.

7. *The prime necessity of a state bureau that it be entirely non-political and non-partisan,* seems at first the reverse of the party bureau requirement. A political bureau must be partisan to the same honorable degree that lawyers are supposed to be, within the limits of professional ethics. Nevertheless some qualification of partisanship is necessary. When there are diverse elements in the party as there are in every party today and widely differing theories as to both legislation desired and its form, the bureau may strive to be entirely non-factional as to individuals but it can not be either a blind advocate of all party measures or flaccidly non-partisan as to the principles involved, if it is to earn any respect for its work.

The "strictly non-partisan" theory might look well in a prospectus but experimentation, though admittedly brief, indicates difficulty in operation and most doubtful efficiency. Requests for assistance in drafting bills, for advice concerning pending legislation, or for arguments upon platform topics require that the answer shall at least express, even though it fail to carry, conviction. When the complicated and highly technical problem of currency was before Congress and aid was requested by the Progressive members, of what value would a text-book of general information have been? There were plenty of these already available. But valuable assistance could be and was rendered by obtaining the services of a recognized authority who had no ax to grind. Three reports were furnished as the bill progressed giving simple, clear expression to the views of a disinterested expert. These were available for the congressmen to test in the light of the debates, and to supply in the end compact reasons for either a favorable or a negative vote, according to approval or disbelief in the arguments.

Twelve bills have been introduced in congress as the result of the joint efforts of the bureau (including the committee in charge in this designation) and the Progressive members of congress. These represent the party effort to fulfill platform pledges on various subjects including child labor, constitutional amendment and corporation control. It would not have been possible to give effective aid to the work without the assumption by the bureau of a partisanship for the principles involved and for the administrative machinery created in these bills. This position of course does not imply any final judgment in the bureau except that exercised by a lawyer in advising his clients. The client makes the ultimate decision but if the counselor were not entitled to his opinions there would be little value in his services.

8. The qualifications of the director of the work are enumerated. According to Dr. McCarthy he "should be trained in economics, political science and social science in general, and should have also a good knowledge of constitutional law. He should, above all, have tact and knowledge of human nature." In the present instance the committee selected a lawyer who had given special attention to constitutional law but who had a more intimate acquaintance with economy than with economics, with politics than with political science and with social sentiment than with social science. The committee may have assumed tact and a knowledge of human nature on the ground that he had practiced law for nine years with ever increasing belief in the need for the recall of judges and for the recall of judicial decisions, and yet had never been fined for contempt of court. A few months experience in this work has convinced the unwary victim of this choice that in addition to the qualifications detailed, the ideal director of the legislative reference bureau of a political party should also have a spirit akin to that of the football marvel who with superhuman agility and exalted idealism carries the inflated pigskin through a broken field of struggling individualists to a common goal.

9. *The need for a trained draftsman.* Even if a draftsman can be afforded in addition to the director, librarian and necessary clerical assistants, there is a distinct question as to whether it is not better to employ special workers as occasions demand. In this way paid experts of peculiar value in certain forms of legislation can be engaged at times, while in many instances volunteer assistance of equal value can be utilized. The party is also thus relieved of the necessity of carrying another salaried worker during the periods when little drafting is needed.

10. *The methods of work* in a state bureau must be distinctly altered to serve the needs of a political party. It is equally necessary to advertise the work, to keep in close touch with legislators, to find correspondents in other States, to prepare indices, to have persons constantly pasting clippings and attending to the mechanical details of a considerable correspondence. There are also the large divisions of the "comparative," the "critical" and the "constructive." But one factor which does not enter into state bureau work is all pervading in a party bureau: the dominant need for propaganda labors. Every energy in a political party must be bent to the end of increasing both its size and solidarity.

Here we enter upon a field of work for a party bureau that differentiates it most markedly from state and municipal bureaus. Not only is the bureau constantly required to act as advocate and counselor both as to measures, and as to practical methods of political action but it is also called upon to participate actively in popular education. As appropriate occasions arise the bureau should be prepared to issue bulletins, newspaper statements, popular expositions of legislative proposals, pamphlets and leaflets for general distribution. In a word the bureau should provide an authoritative source for all forms of political publicity that concerns matters of legislation. The more a party endeavors to represent demands for constructive reforms the more important becomes the work of a legislative reference bureau and the more surely it tends to become a center of party publicity.

It is certainly significant of a changing attitude toward politics that the need for such a bureau has been recognized in the two younger national parties. Although the Socialist party's information bureau is so modeled as to make comparison difficult it is an undertaking based upon a similar theory of the machinery necessary to a party presenting a definite and vital program for expanding governmental purposes.

The dominating force of strong individuals is inevitable but the subordination of the individual will to the judgment of the many requires the organization of groups of trained counselors actively engaged in party work both during and between campaigns. The establishment of a national legislative bureau and coöperating state organizations is a logical means to bring about ultimate control of principles in party counsels. In this way the tendency of the so-called "two party" system to produce only a party of administration and one of opposition may be combated. This is one method whereby it is possible to continually renew the party vitality by drawing upon the courage of militant idealists and the counsels of disinterested thinkers.

The charge of office-seeking is one to which most professional politicians must plead guilty and yet there is far more of desire to give public service in most office-holders of importance than is commonly credited to them. One finds in so many legislators a genuine interest in good legislation and an almost pathetic eagerness to make a good record. Anyone who has worked with state assemblymen or with members of Congress must have been impressed with the earnest struggle which many are making to fulfill their often conflicting obligations to their party, their constituents, their convictions, their government and their private interests. The partisan, the constituent, the reformer, the administrator and the dependent relative each feels that his should be the dominating demand. Devoted public service requires always the sacrifice of some, and, at times, of all.

If the legislative bureau of a party is operated on a human basis it will consider all these factors and seek to aid the legislator in the mechanical difficulties of his work while at the same time helping to clarify the issues involved in the complicated problems presented to him. In this way at least progress may be made toward clear cut decisions as to support or opposition. If from a muddle of confused and conflicting points of view can be sorted out arguments pro and con, choices between theories of improvement, opportunities to vote for or against the public interest, an advance will be made toward better government.

Legislative reference work established by the State has proved that this assistance can be rendered in a positive but non-combative way. Legislative reference work in political parties may be able to give militant service to the same end if our political ethics have progressed to the point where the value of such aid is understood. That is the present problem for those interested in the work. The need is there and the remedy has been proved. Are the rank and file of a political organization sufficiently far-sighted to recognize the need and to utilize the remedy? Are they sufficiently impressed to withdraw funds which would otherwise go into direct artificial organization and publicity work, and to devote them to this indirect, but far more permanent work, of natural organization and publicity, that is, the building up of an organization on principles instead of on oratory, and the obtaining of publicity for good works instead of for promises?

The problem of financial support follows naturally upon this question. Before discussing this delicate matter it should be stated emphatically that it is not necessary to fall into a mistake prior to considering it, and that possible blunders happily avoided are as important to this discussion as unhappy experiences. It may be necessary to begin a great many good undertakings, upon a wrong basis. A man with a priceless idea may starve in obtaining its acceptance. He may be forced to receive charity. He may find it necessary to interest selfish capital and agree to divide the proceeds of extortion in order to induce the public to recognize its own interest. With the same justification of necessity public service is often given by private organizations until the public is convinced of its value.

Legislative reference work for a political party should be financed by appropriations from a party treasury filled by small contributors not only because it is for the benefit of all but also in order that it shall be above suspicion. The force of the lobbyist, or of the lawyer in court, is half wasted because he carries with him the stamp of a partisanship based on cash. It is difficult to judge whether the aid of special contributions is or is not a necessity in establishing a party bureau, but this much is certain: if special financial aid is necessary it should only be accepted in such a manner as to give no right of direction over the work and it should be eliminated as speedily as possible.

In truth a more serious charge of bad faith might be brought against a bureau which, for example, utilized money contributed by child labor exploiters in campaigning against child labor, than against a candidate who pursued the same course of conduct. It seems, therefore, necessary in this consideration to emphasize that if a party legislative reference bureau is to organize those most fit to give high-minded and disinterested service to the party, its financial support must come from the rank and file, in the same manner in which a state bureau finds its support and obligation in the public taxes.

Such a bureau will be able to enlist the invaluable aid and coöperation of men and women of exceptional learning and authority. These priceless contributions of time and energy will enlarge the possibilities of the work indefinitely, and provide a reservoir of constantly increasing capacity in which may be stored up the supply of talent so urgently needed and so painfully collected during active campaigns.

Outside of its immediate practical uses there is a part in more distant changes which may be played by legislative reference bureaus for political parties. There is in the work that combination of law and politics and social science which is rapidly creating a new profession, which might be termed that of social counselor. It may be regarded as one of the large divisions into which the profession of law is separating.

Voices are heard on all sides proclaiming the passing of the old fashioned lawyer. He leaves the stage arm in arm with the family physician. Sentimentalists deplore the loss of noble models of conduct and iconoclasts dispute over which shall be adjudged the greater humbug. But the gradual elimination of a once powerful class is fairly obvious. The corporation lawyer is more of a business man than a lawyer. There are lawyers engaged in real estate business whose legal knowledge is specialized and usually far from profound. The bank attorney is more than half banker. The lawyer politicians who dominate our legislatures and fill a large part of our executive offices are politicians with legal educations. These men are not lawyers—let it be said to their credit—they are engaged in useful occupations.

A nation is striving by law to get rid of its lawyers. Trust companies, title guarantee companies, liability insurance, workmen's compensation, boards of mediation—each of these marks the necessity found to reduce the lawyer to a clerk or to eliminate him altogether. He has puttered around in modern society, tinkering at justice with his thousand and one little remodeled eighteenth century tools, striving to conceal his incapacity with all the worn out tricks of the trade. Slowly and steadily the profession of promising justice without knowing what justice is or where to obtain it, is becoming unprofitable. The successful lawyer nowadays is one who engages in other business than mere law.

If the successful lawyer is to be a business man and the practice of law as a profession with ideals and a scientific interest is to be confined to fledglings and stubborn old reactionaries, who are to conserve and carry onward legal ideals? There are many answers. Prof. Roscoe Pound of

Harvard holds that the teacher of law "should be a student of sociology, economics and politics as well," from which it follows that the graduate of a law school should be the same. Prof. Simon N. Patten of Pennsylvania has written recently and prophetically of *The New Jurisprudence,* which we may assume is about to arrive. It has certainly been a long time on the way. It seems at least true that the sooner a definite reshaping of the legal profession begins the sooner will politics and the administration of justice show signs of notable improvement. Yet the present day education of lawyers for the professional labors which should be theirs—education to qualify them to be social counselors—is sadly lacking. The crass ignorance of the average member of the bar concerning the social legislation which is being forced upon him is truly amazing. Those laws which should be the product of an enlightened bar are gradually being enacted over the solemn protests and warnings of the profession that should have fathered them.

During the transition period between the almost purely parasite lawyer of today and the social counselor of tomorrow legislative reference bureaus may serve as post graduate schools in which young lawyers may be brought in touch with the needs of their generation in the way of jurisprudence. If every political party would develop a national bureau and gradually add auxiliary state bureaus there might be within a few years a sufficient number of these post graduate courses available to make a distinct impression on the bar of the next generation. It might be that there would be organized associations of counselors for other purposes than the delivery of profoundly nonsensical addresses and the preparation of scientifically unscientific reports. There might be created in each community groups of earnest young men devoted to the idea of helping the law to keep pace with the giant strides of social and industrial needs.

All this may appear to be the veriest day-dreaming, yet if there is any future to such work as this under discussion it is a large future. We are not considering a mere mechanism. We are considering a germinating idea. Here is a possible means of bringing together a thousand and one strands of experience in modern existence in such a way that when the law-maker attempts to weave them into a community garment he may work out a pattern of justice.

The weaving of government is being very crudely done. We are seeking new methods and thoughtful speculations are not unimportant. Perhaps in even as inconspicuous a field as legislative reference may be found a clue to the new justice which as a nation we hope to evolve after we have been once again set free from the wisdom of our sires.

DISCUSSION

Dr. Charles McCarthy in discussing the legislative reference department, said:

This is but a movement for building up of statute law. It will not be a cure-all. Statute law will not be built up unless we have some administration to carry out the will of the people as expressed in the statute. We never can have this administration unless we have trained men as administrators. We can not leave it to the common law lawyers and to the corrupt politicians to draft our laws. We will never have good law-making until we have had a chance in the building up of administration. Therefore, I think that the training of administrators should go hand in hand with any new movement to better the statute law. This means that our teachers in political science and economics must be trained in practical affairs and must take part in practical affairs. If they do not they will be unable to make practical administrators out of their pupils. If our political scientists and economists simply teach out of books in the future sooner or later we will ask them some pertinent questions as to their value as teachers.

The legislative reference department, after all, is merely an instrument to carry out the work begun by Bentham. As civilization advances and education of our people advances there is no reason why we could not make statute law in a more scientific manner. In the past when legislators tried to write the statute law, the courts had to be called in to enlarge and modify the statutes and to make them elastic. Then judges were the experts. The time has come now when we ought to minimize the work of these experts and we ought to add the experts to help in forming the popular will into statute and so make the written law the dominant law of the future. The way to codify law is not to codify it after democracy has passed upon it, as Bentham would have us do, but to codify it while it is being made; that is, to draft it scientifically, and as I said, that does not finish it, for a law is of little use unless it is carried out scientifically. To be carried out scientifically we must have our expert administrator.

Mr. John A. Lapp, of the Indiana bureau of legislative information, said:

The ground has been pretty well covered this afternoon and there remains little to say except to emphasize a few main thoughts brought out by previous speakers.

The question has been raised whether the legislative reference bureau should do bill drafting and what should be the relation between the reference and bill drafting work.

The first question I would answer emphatically that the legislative reference bureau must do bill drafting if its work is to be effective. The rich stores of information gathered in the bureau can be brought into use in no other way and if the legislative reference bureau has one function more important than another it is to bring the accumulated information into action.

With respect to the second question I am convinced that the best organization is to have the whole under one director. The work will in that way be coördinated with the greatest effectiveness. The drafting and reference should be intimately related so that the latter may have the material for the former and the former be able to use more effectively the work of the latter. In fact I believe that there should be an interchange, the draftsman doing reference work at times and the reference people taking some hand at drafting. The point of view of each will by that means be kept broader than otherwise. I count it a serious objection to the bill now pending in congress, that the drafting and reference work are entirely separate, the first under a separate director and the latter in the library of congress. It is presuming too much to expect the two separate bodies will work in harmony on matters where the most intimate relations are required.

A third question has been dwelt upon at this meeting, namely, what should be the experience and training of the draftsman? It is one of the strangest delusions of the time that the lawyer is the ideal draftsman. Because the work deals with the statute book does not mean that the lawyer has any more knowledge of the subject matter than the average layman. How much more, for instance, does the average lawyer know about the school law or the highway law, drainage, public health, charities and correction or administration? Scarcely any question comes up in these fields where the lawyer's practice gives him intimate knowledge. He may have the advantage over the layman in knowing where to find the law but that is about all. Drafting is, in a large way, a problem in English, a problem of expression in such terms that people can understand and so clear that people, lawyers and courts may not pretend to misunderstand.

Moreover, the draftsman must have the forward look. He must show what can be done, not what cannot be done. And since so many of the problems of legislation are economic and social, it is necessary that he be well grounded in those sciences. It is better to take an economist and give him enough law to make him a draftsman instead of running the risk of superimposing an economic training upon the lawyer's groundwork.

The best combination, to my mind, is to have a man trained in economics and political science to do the drafting and a lawyer to criticise the work. The particular function of each comes thus into play.

Mr. McCarthy: Will you please tell about the public affairs information service which you have organized?

Mr. Lapp: The public affairs information service is the outcome of a conference of legislative reference bureaus regarding plans of cooperation so that the material available in the country for our work might be known and so that each could profit by the work of all. The service has been under way since September 1st with headquarters at the Indiana bureau of legislative information. Each institution pays $25 for the service which is merely sufficient to do the clerical work, the Indiana bureau assuming the burden of directing the work for the first year. Each bureau furnishes notes and items of publications, investigations or researches and of their own work. These items are collected and issued in mimeographical bulletins to the coöperators. Any of the typewritten material listed may be obtained from headquarters at cost. Over forty institutions including legislative reference, municipal reference, college and city libraries have joined in the plan. Twenty of these bulletins have been issued up to this time.

Mr. Elliot H. Goodwin, secretary of the Chamber of Commerce of the United States, spoke briefly of a referendum vote recently taken by that organization upon the proposal that the Association should urge congress to establish a legislative reference bureau. Mr. Goodwin described the method by which this referendum was taken, and said that an overwhelming majority of the local boards and chambers of commerce had favored the establishment of such a bureau.

NEW PROPORTIONS IN POLITICAL INSTRUCTION

BY EDGAR DAWSON

Normal College, New Yerk, N. Y.

We have before us the college course in government for undergraduates, the great majority of whom are going into business or the learned professions, and will have no other opportunity to get, through systematic study, the right attitude toward the State. Our problem is a severely practical one. We are seeking results in the form of good citizenship; and good citizenship is mainly a matter of the heart rather than of the head. It is far more a matter of impulse than of knowledge. Given a body of honest, patriotic, sober citizens and the rest will take care of itself. Switzerland is said to have self-government, yet few of its citizens have had a course in college which deals with government.

The direct question before us is, what changes shall be made in the course in order that it will be better adapted to the results we seek? I shall ask only for a slight change in emphasis. No doubt just the sort of course I shall propose is now given by many of us. If that is the case, bear with me patiently; for without doubt in many instances a very different sort of path is followed, a path which leads through dust and ashes, to discouragement or indifference. Our Association should lend all its great influence to providing such a course for every undergraduate as will make it more probable that self-government will survive among us—or should one say, will arise among us? What liberty we have is threatened, not by the hereditary despot, but by a force that is far worse; the mob led by the demagogue, ignorance led by greed. Our only champion against this foe of our institutions is a body of enlightened and patriotic leaders, followed by a body of citizens with a reasonably accurate view of what is possible of accomplishment through governmental interference or support.

Our material is a group of young persons about to take up the duties of citizens along with the duty of making a living, devoting about 99 per cent of their energies to the latter. They propose to devote to our work in college about three hours a week for a college year. We propose, as Mr. Bryce says, to sow the seeds of idealism, to plant the germs of *civisme* before the boy becomes too much occupied with business or pleasure to receive them.[1] Our object is not to make political scientists, or expert administrators, or able statesmen. Our purpose is to get the boy's heart right; to give him the right impulse; to establish a disposition to be a good citizen. Without this impulse, he may know all the political science in all the books, and yet as a consequence be only a more expert demagogue. As Mr. Bryce goes on to say, we wish to give him such knowledge of his institutions as to make him interested in them and disposed to love them. We must make him feel the community about him; disposed to live under its laws; willing to support the officers of these laws.

With this material and this purpose; what changes should we make in the course? I wish to recommend three: (1) that we give much less attention to the federal government as compared with the state and local government; (2) that we give much more attention to the functions of the State as compared with its machinery; (3) that we brighten the work somewhat with some comparisons with the practice in foreign countries.

My first proposition is that we give to state and local government in our teaching far more emphasis than we do, four or five times as much emphasis. This is desirable not only because the State now does most of the things in which we are most vitally interested, but because the state and local governments should continue to do them. There is danger of these continuing to be badly attended to; and finally of being given over to the federal government which will not attend to them any better and local self-government will have become atrophied.

Mr. J. A. Tawney says,

> If this tendency is not checked and the States continue to surrender the exercise of their reserved powers, or fail to exercise them in harmony with the interests of their sister States, then the federal government, as a *dernier ressort*, may be compelled to assume practical control over the States and the affairs of their people.[2]

One should not argue against the federal government having ample powers. There is no reason why powers should not overlap in many fields.

There is no reason why both State and nation should not legislate against adulterated foods or cloths, the nation limiting its activities to interstate commerce. As Mr. Root says, however,

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[1] *Educational Review*, iv, 171.

[2] Reinsch, *Readings on American Federal Government*, p. 776.

> There is but one way in which the States of the Union can maintain their power and authority under the conditions which are now before us, and that way is by an awakening on the part of the States to a realization of their own duties to the country at large.[3]

No one here will deny that it is important for local self-government to be preserved in this country.

The sphere of state legislation is so comprehensive, and yet so much a matter of commonplace interest and information, that it has been largely ignored by the teacher and text-book writer in favor of the more spectacular and sensational in federal affairs.

Mr. Bryce in his *American Commonwealth*[4] has described this sphere as follows:

> These rights practically cover nearly all the ordinary relations of citizens to one another and to their government, nearly all of the questions which have been most agitated in England and France of recent years. An American may, through a long life, never be reminded of the federal government, except when he votes at presidential and congressional elections, buys a package of tobacco bearing the government stamp, lodges a complaint against the post office, and opens his trunk for a custom-house officer on the pier at New York when he returns from a tour in Europe, etc.

Professor Beard[5] seems to think this is too strong a statement of the importance of the state government to the individual. He thinks

> The federal government is not so far away from the life of the citizens as it once was, and as the economic organization of labor and capital increases the extent and strength of its ramifications throughout the social body, the federal government will inevitably come nearer and nearer to the private citizen. . . . . Nevertheless the functions of the State will also increase in importance, and the State as a guardian of the fundamental and private interests should grow in the esteem of the citizen.

President Wilson has said

> All the civil and religious rights of our citizens depend upon state legislation: the education of the people is in the care of the States; with them rests the regulation of the suffrage; they prescribe the rules of marriage, and the legal relations of husband and wife, of parent and child; they determine the powers of masters over servants and the whole

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[3] Reinsch, *Readings on American Federal Government*, p. 735.

[4] 1912, vol. i, pp. 425–426.

[5] *American Government and Politics*, pp. 442–443.

> law of principal and agent, which is so vital a matter in all business transactions; they regulate partnership, debt and credit, and insurance; they constitute all corporations, both private and municipal, except such as specially fulfil the financial or other special functions of the federal government; they control the possession, distribution, and use of property, the exercise of trades, and all contract relations; and they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas, or against the law of nations. Space would fail in which to enumerate the particular items of this vast range of powers; to detail its parts would be to catalogue all social and business relationships, to set forth all the foundations of law and order.[6]

And (in sec. 1095) he shows that of the dozen political issues of England in the last hundred years, all but two would here be matters of state legislation; and one of these, slavery, was given to the Federal Government only by recent constitutional amendment under stress of the excitement of war.

Professor Reinsch says,

> All indiscriminate decrying of state government is harmful because it is likely to disgust the citizen with the organization of state government and send him to the central, federal government for help. The legislation of the State is actually of far greater importance to the citizen than that originated in congress. The general law under which we live is entirely under the control of the state legislatures. Such momentous matters as the relation between labor and its employers, the law of the family and of property in all its ramifications, the law of personal injuries and of crimes, are all within the state legislative field. Moreover, the last decade has brought a remarkable development in the administrative functions of our commonwealths, far beyond anything that could have been foreseen during the earlier era of our history.
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> Yet unhappily it is true that state legislatures have attracted public attention and caused public discussion not so much on account of the importance of their functions, or the greatness of the interests with which they deal, as on account of the bottomless corruption which has disgraced so many of them. Their evil fame has almost outweighted in the public mind the general usefulness of these institutions throughout the country.. It is indeed time that a different attitude should be assumed toward these bodies, and that more intelligent and discriminating attention should be given to the efforts of their members. It has almost become fashionable to talk of state legislatures as bodies in which men of ability and respectable character are in a disappearing minority, and yet even the most superficial acquaintance with actual legislatures

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[6] The State, sec. 1094.

> will immediately reveal the fact that they are fairly representative of the American people, and that there is in them a great deal of honest effort to grapple with the difficult problems of legislation, misguided though this effort may be at times for lack of authentic information, and thwarted by certain vicious arrangements in our political system.[7]

It is nothing new for one to ask that much more attention be given to state and local government. The proposition has been frequently repeated during the last decade. In 1903 Mr. J. B. Davis said of the course in Detroit Central High School covering local, state and national government,

> Nearly one-half of the time is given to local institutions and about one-quarter of the entire course to municipal government. The reason for this is that we believe we are preparing the young not to be governors or presidents, but to be citizens.[8]

It cannot be maintained that we are giving to state government anything like the attention in our teaching that its relative importance to the citizen justifies. But let us avoid the possibility of seeming to set up a straw man to tilt at. The following figures were collected from a number of school and college textbooks, all in fairly general use:

B. A. Hinsdale's book, reprinted in 1912, and therefore still sold and used, gives to the federal government 251 pages and to the State only 53; to congress he gives 91 pages and to the state legislature 5; to the federal executive 43 and to the state 3; to local government 11 pages in all. This book of course represents the oldest school.

Mr. Bryce in the *American Commonwealth* gives to the federal government 396 pages; and to state, local and municipal government 256; to congress 120, and the state legislature 17: national executive 59, and state 7. But he says:

> I call it [state government] a field: it is rather a primeval forest, where the vegetation is rank, and through which scarcely a trail has been cut . . . . in the meantime, the difficulties I have stated [lack of pathfinding investigation] must be my excuse for treating this branch of my subject with a brevity out of all proportion to its real importance.[9]

S. E. Forman, 1910, gives congress 15 pages and the state legislature 8; federal executive 15, state 7; federal judiciary 15, and state 7.

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[7] *American Legislatures and Legislative Methods*, pp. 127–129.

[8] Conference for Good City Government, Proceedings, p. 233.

[9] Pp. 412–413.

James and Sanford, 1901, give to local government (town, county, city and state) 110 pages, federal 246; to state government 17 pages; federal executive alone 55; organization of congress alone 43; town and county government 7 pages.

J. W. Garner's interesting little book *Government in the United States* treats state legislation in 18 pages, congress in 43; state executive in 18, federal in 79; state judiciary in 16, federal in 16: municipal, county, town, 52.

R. L. Ashley, 1910, gives to the national government 184 pages, state 130; national legislature 25, state 9; national executive 25, state 6; town, county, city, 25.

Even as good and progressive a book as W. B. Guitteau's for high schools, gives to the elements of politics, origin, structure and functions of rural local government, and municipal government, both organization and activities, only 73 pages out of 470. To state legislation only 11 as against 37 to federal legislation, and to federal, executive and administrative departments well into twice as much as to state.

C. A. Beard, 1910, whose book is best proportioned, gives to the federal government 327 pages, state 347; congress 63, its organization 22, its powers 14, and procedure 27 in separate chapters; state legislation 31, in one chapter; federal executive 65, election of President 21, his powers 28; administration 16, besides many chapters on department work; state executive 28 in one chapter.

P. S. Reinsch, in his two books of *Readings*, gives to the federal government 845 pages and to state 464, both being recent books.

The college board's examinations are indicative of and influence the school courses. Out of 31 questions, given in 1901–1913, at least 25 are on the federal government and yet there is no valid objection to properly framed questions on state or municipal government.

The *New England Syllabus* of 1910 gives to local government 24 pages; municipal 36; state 40; federal 40.

Is it not safe to say we have been giving twice as much time to our federal government as to the remainder of our organization? If so, is that proportion justified? The *New England Syllabus*, speaking for the high school, but applicable also to the college, says:

> Not only should the study of our federal government come last in the high school civics course, but the time devoted to this part of the subject should not be more than about one-fourth of the time allotted to the whole. Commercial reasons, no doubt, have brought the undue space and emphasis given in the majority of civics text-books to the

treatment of the federal government. Most of our text-books are made to sell in all the States of the Union. Since state governments vary so widely that comparatively few statements—and these but general commonplaces—can be made regarding them, no adequate or concrete treatment of state government could be given in these books.

Since local governments in the different parts of the Union vary still more widely than state governments, local government has received still less adequate and satisfactory treatment than state government has. Hence text-book makers and publishers have relied largely upon a treatment of the federal government to make text-books which should be salable in all States. Such books give to the young citizen a false perspective of the field of government and a distorted view of his relation to it.[10]

My first point has been easy of elucidation, my second is, that we should give to the functions of government more attention than we have given. This change is ancillary to the first. State government cannot be properly provided for in school and college text-books unless we transfer the emphasis to functions. But if we are disposed to follow the recommendation and if it can be followed, one of the greatest bugbears to teaching state and local government will disappear. We are told not to teach New York government in college because many of the students are not from New York, and they would like to know about a government under which they are to live. Now then if we turn from the machinery of government—the tools government uses; to the functions of government, to the things the citizen expects the government to do; these latter are about the same all over this country and all over the world. All governments have to solve the same elementary problems. The study of the machinery is merely the observation of the great political experimental station called the world, and an attempt to generalize on these observations as to what is the best solution of these problems.

But I would not be misunderstood. I do not argue for a course in theories, or abstract science, or anything of the sort. No teacher of government should listen to a single opinion from any pupil as to what is good or bad about government without knowing that the pupil has a fact behind that opinion. It may not be necessary to ask for it every time if the teacher knows the pupil; but it should be asked for whenever there is any doubt about its existence. If a student says he believes in the initiative; ask him what variety of it; when he names the variety ask him what reasons he has for believing in it. Where has he known of laws being initiated in this way successfully? If he says Switzerland, ask him if he is sure about his facts, and give a contradictory one if possible. Make him see that mere opinion about government is nearly worthless, and often leads to demagogy and other abuses. Don't discourage him, but lead him gently to see that there are but few useful facts about government; that we have reached but few useful conclusions. All the rest is hope and experiment. But all these great problems face us and must be solved and he must help to solve them.

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[10] Pp. 18-19.

I do not expect every good teacher to agree with my third suggestion; namely, that some comparative government be attempted in the undergraduate course. The *New England Syllabus*, p. 25, quotes John Fiske as saying, "It is impossible thoroughly to grasp the meaning of any group of facts, until you have duly compared them with allied groups of facts." When we come to the study of constitutions, for example, what the average citizen needs to have is a conception of the function of a constitution. What are our written constitutions for, anyway? England is a well governed state, and places no such check upon her organs of government. It is true that the lords have long acted as a restraining force in England, but now that the lords are disappearing, what is going to replace them? A one-chambered legislature without check of any sort? If so, why may we not have the same? To understand this problem it is not necessary to memorize any large parts of the state constitutions; but it is necessary for the student to read several of them through carefully to see what kind of things they are. Every student of the formation of constitutions should read one of the old-fashioned short kind and one of the new-fangled long kind. He should also read a translation of the French constitution and the Prussian, if he can not read them in the original. Now this does not make up much reading in the aggregate. Then he and the teacher should discuss their differences in the class. It is a reasoning process and an attitude of mind that the student must develop. By this I do not mean an ability to talk without facts.

If we come to a comparative study of the enactment of statutes, we are faced at once by the problem of initiation. Shall it be by interested parties in the "initiative" method; or by any old party that happens to go to the legislature, as is the practice in our States at present; or by some responsible and conspicuous person like a governor or a prime minister? Is it not possible to get the average college student to take in this proposition and read enough of modern English and French history to grasp it in some of its outlines? A student should be willing to read one hundred and fifty or two hundred pages a week in such a course. If he do so, he can find ample material within that limit. As the *New England Syllabus* says (p. xxv) our object is to "stimulate intelligent criticism to the end that as generation after generation grow up and have their influence upon government, the unnecessary, the weak, and the bad in government may be eliminated." So, after generations of effort, have we been able in New York to eliminate the party column ballot in favor of the Massachusetts form. It took generations, but it has finally come. Government is not a static thing, it is a movement. One must study it as he studies a stream or a glacier. It is constantly changing. We cannot memorize stakes, we must grasp processes.

I have discussed these three suggestions as if we could depend upon having persons to teach government who know the subject and are interested in it. Unfortunately we know that such is not the case. Many of us would dispense with classes in government altogether until we can get such persons. Time spent with a good teacher of mathematics or Latin or physics is far more likely to promote good citizenship than time spent with a poor teacher of government. The person who pretends to try to teach others to be what he is not is a mere hypocrite with all the weakness and impotence that hypocrisy carries with it. The teacher of government must first know more about political problems than the other persons in his neighborhood; then we must have enough interest to use that knowledge with some effect in helping to lead his neighborhood in the right direction. The City Club of New York never participates in any election. It never has any part in the appointment of or election of any person to office. But it exerts a constant influence in favor of every useful political reform. It arouses no antagonisms because its efforts are not to compel but to enlighten. The teacher of government might properly follow this example. He should be recognized as a wise guide in matters of government, just as the teacher of medicine would be in cases of illness, or the teacher of law in questions of property rights.

This country must lead in the development of a democratic government, in which the majority will rule with wisdom. This can come only with trained leaders. The colleges must train the leaders. Are we doing it? Have we any very definite plans on foot by which we mean to do it?

METHOD AND MATERIAL IN POLITICAL INSTRUCTION

BY J. LYNN BARNARD

Philadelphia School of Pedagogy

It is a significant fact in the history of political instruction that the American Political Science Association and the National Municipal League should be making a simultaneous effort to investigate the content, method, and proportion of such instruction, with a view to offering definite and helpful suggestions to teachers of the subject. And that at the same time the National Educational Association, through its committee on social studies, unwilling to wait for further data, has begun to sketch out for the secondary school a program of economic and civic instruction combined that shall mark a radical departure from the formal textbook course in government. Dr. Haines will tell you of your own committee's work, and Mr. Dunn of that of the Municipal League's committee, for the two are now coöperating. I shall avail myself of the National Educational Association preliminary report[1] as a point of departure for this paper.

This tentative report recommends five possible units of social science for the secondary school, including history, economics, and civics, each unit to represent three or four periods a week for a year. The history is to be radically changed in content, so as to help to an understanding of present-day political and social institutions—a problem with which the American Historical Association has just been wrestling in Charleston. The introductory unit in civics (to find its place eventually in the seventh and eighth years of the elementary school) is to relate the pupil to his political environment, to acquaint him with his privileges and duties as a citizen—in a word, to teach him to think civically, and to *act* as he *thinks*. As a further aid to good citizenship a survey of vocations is outlined, that shall help the boy and girl to "find themselves" industrially when the school days are ended. The advanced unit in social science consists of a half-year of elementary economics, followed by a half-year of rather serious study of governmental forces and the machinery through which these forces act.

[1] Bulletin No. 41, 1913, U. S. Bureau of Education.

Those who have worked at this outline believe that it will be of value both to the boy and girl who go on to college and to those not so fortunate. As college instructors, in the main, the members of this Association are naturally most interested in the few survivors of the academic Marathon who finally arrive on the college campus. So it will be appropriate to discuss the sort of political training these racers ought to receive in order to be in the best possible trim for the severer tests of college days. As a one-time college professor, and now a teacher in a normal college for men, I may perhaps be justified in claiming that my point of view is not altogether theoretical.

Other things being equal, will not those students be most satisfactory to us who have already been brought into closest contact with their real social environment? Will not those students be best prepared for collegiate instruction in government and politics, for college life itself, and for the teaching of civics or for leadership in affairs when college days are over, who have touched the realities of civic life in a way that was educational because direct and genuine? The average freshman enters college without civic instruction or civic ideals. For the student in moderate circumstances this is a misfortune; for the "poor rich" young men and women it is especially unfortunate. Surrounded by those in the same social stratum as themselves, and without the spur of economic necessity, they are too apt to think of college as primarily a place where they may make congenial and influential friendships that will be a source of pleasure and profit in later life. And the almost hopeless problem of the college is to develop in these young people social ideals that shall carry them out to a life of service. How much better it would be, for college and students alike, were the latter "caught young," back in the impressionable days of the elementary and secondary school, and given sensible political instruction along with the languages, mathematics and science! If you believe that such instruction is worth while, today's discussion of ways and means is surely most appropriate.

Having a rare opportunity to experiment with civic instruction in the elementary school, through our practice school (fifth to eight grades inclusive), we were determined to work out a course of instruction that should relate the children to their social environment and thereby train them for effective citizenship. Our first step has been to show the child, in very definite and practical ways, that the social world round about him is made up of various communities: the home, the school, the church, the shop, the city, the state, the nation; that from each of these communities he, as a citizen, receives unnumbered privileges and blessings, and to each is under definite and serious obligations. This idea of citizenship in the large once grasped, the boy is easily carried over to one particular type, political citizenship. He is made to feel that the good citizen is one who is both able and willing to contribute his share in community action.

However, we have found that the qualities of good citizenship cannot come from a mere accumulation of dry and more or less unrelated facts, nor from abstract generalizing about those facts; they must arise from a live, intelligent interest, which can be cultivated only by direct contact with community action, by enriching and capitalizing the child's own social experience. Accordingly, our civic work throughout the four years has come to be just as alive and concrete as we know how to make it.

During the first half of the grammar school period the child is still revelling in the hero-worshiping stage—the idealizing of men and things. Hence it is a most valuable opportunity for helping him to understand, and thus to idealize, community service. During the fifth year a beginning is made with the child's common experiences within his home and his school, or within the immediate vicinity. The topics taken up are: gas, electricity, water, sewage, and the telephone; the policeman, the fireman, the street sweeper, the garbage collector, the ashes collector. A preliminary class discussion of each is followed by a trip, taken either by the whole class or by some of its members, and then a report to the class of what was seen. In the final discussion care is taken to bring out, by careful questioning which follows the lines of the pupils' own observation and experience, what the boys themselves may do or refrain from doing as their contribution to this community service. The sixth year is taken up, first, with various educational institutions, including libraries, museums, historical buildings and localities; and second, with public buildings, such as city hall, mint, customs house, armories and arsenals. The method used is similar to that employed in the preceding year.

Throughout the fifth and sixth years the one end and aim is to acquaint the child, in a practical and interesting way, with his civic environment and with the reciprocal relationship existing between the community and the citizen. Under this sort of stimulus the boys are coming to appreciate the difference between clean streets and dirty ones, between well paved thoroughfares and badly paved ones—in short, between community action which is efficient and that which is inefficient. And they want to help keep their city clean and healthful and beautiful. Would not this seem to be a fairly safe basis of good citizenship, and a reasonably solid foundation for later political instruction?

Thus far the word "government" has not been used, unless inadvertently: only the more general term "community." But during the seventh and eighth years more attention can be safely given to the end and aim of governmental activity, and to the way in which public and private agencies unite to accomplish results. The seventh year is mainly devoted to municipal government, using Philadelphia as a basis of comparison with a few other cities; while the eighth year is equally divided between state and nation, with Pennsylvania as the basis of comparison. But this distinction, so artificial to the child, is constantly broken over in the discussion of governmental activities.

First to be considered is how the community, be it city, state, or nation, helps the normal citizen in his need for protection of person and property, for good working and business conditions, for transportation, education, recreation. Then follow briefer discussions of how each political unit takes care of its subnormal citizens: the dependents, the defectives, and the delinquents. As each function is discussed, the organization of the government—local, state, or national—to do this work is outlined, with occasional reference to ordinances or laws or charters or constitutions. And the way in which private agencies unite with public departments or bureaus is explained, that the pupil may understand one of the ways in which government and citizen work together. Finally, how government gets the money to do its work is not forgotten.

Of course, the touch must be light during these four years or the pupil would be weighed down with confusing detail. The object throughout is, not to impart the greatest possible number of facts, but to make the best possible citizens. Accordingly, this all-important point is never lost sight of: to follow the order of the child's own interest and appreciation, namely, from function to structure, from the administrative department which does things to the legislative which plans the things to be done and then to the judicial which interprets and helps enforce these plans, and only when necessary to the charter or constitution which lays down legal powers and duties. To reverse this order in the secondary school is to deprive civic training of fifty per cent of its interest and value: in the elementary school the loss is one hundred and five per cent, at the lowest calculation!

Civics has long been at a disadvantage with the natural sciences because it did not, and supposed it could not, employ the laboratory method. Whatever might have been done in the past, there is no excuse for longer neglect in developing civic laboratories in both elementary and secondary schools, when the various political units—local, state, and national—are publishing understandable accounts of their workings and are making these accounts easily accessible. Maps, charts, photographs, lantern-slides, plans and specifications, samples of pavement or other building material, departmental reports, laws and ordinances, charters and constitutions—all these, and many more which your own ingenuity can supply, lie within reach of the resourceful teacher of civics.

I have tried to show that political instruction—I like to call it civics, even if the name has been so badly misused—is not a series of cold and indigestible facts, unrelated to life. Civics is itself a life, a growth, democracy in the making! This means that it must be given adequate time in the school curriculum, and that it must be continuous and cumulative throughout at least the first eight years of school life. With this as the foundation something worth while may be accomplished in the high school period, for the 20 per cent who are so fortunate as to reach the People's College. And now a few words as to what may be done there, alike for those who will go on to more advanced instruction and for those who will not: for believe me, Mr. College Professor, the needs of the two are identical in this field of education, and no differentiation should be permitted.

A splendid experiment in the newer sort of civic training, of which I have personal knowledge, is now being conducted in the William Penn High School for Girls, Philadelphia. Unfortunately, the old-time Constitution memorizing performance is still in vogue in that city, though a radical revision is imminent. So the work at the William Penn cannot be as advanced as it will be in the future. The brief time at the disposal of civics, in the senior year, is taken up mainly with a somewhat detailed study of the home city. Instead of wasting precious hours with abstract discussions in constitutional law, the girls are directed into a most valuable study of the vital problems of health, sanitation, building regulations, water supply, sewage and garbage disposal, street cleaning, lighting and paving, police and fire protection, transportation, city planning, education, contracts and franchises, and revenues.

The girls were supremely indifferent, in the old days, as to exactly how the federal executive may act as a check upon the legislature. But they are taking a keen and sustained interest in this new type of political training, for they are at last getting answers to questions they really want answered. And this is not all. These girls become possessed by another motive—the true goal of the educational process—that of wanting to do something about it if conditions need righting. *They have learned to* *think civically*. Let me illustrate by a story I told, some time ago, in the *Saturday Evening Post*.

One of these girls, after studying housing conditions, went to call on her washerwoman to see what life was like in one of the city's worst enclosed courts. She was taken about the neighborhood and shown all the things the landlord ought to have done, but had not. "And the owner of the buildings is a good church member, too!" commented the girl, indignantly. How long, think you, will enclosed courts and narrow alleys and bad sanitary conditions prevail, once the citizens know the facts and learn to interpret these facts rightly? Even good church members will have to get busy if they are profiting in this unregenerate fashion.

Once the proper foundation is laid in the elementary school, and the history is socialized in the earlier years of the secondary school, the senior high-school year of social science as outlined in the National Educational Association report should be well within the possibility of attainment. It would mean a year of elementary economic and political theory, practically applied to the concrete problems of the day; to the end, that the student should lay hold upon the one essential truth: that there is gradually coming into the world of human affairs, economic and social and political democracy—a Garden of Eden at the end of the story rather than at the beginning.

REPORT ON INSTRUCTION IN POLITICAL SCIENCE IN COLLEGES AND UNIVERSITIES

PORTION OF PRELIMINARY REPORT OF COMMITTEE OF AMERICAN POLITICAL SCIENCE ASSOCIATION ON INSTRUCTION IN GOVERNMENT

At the annual business meeting of the Association held at Buffalo in December, 1911, it was voted "that a committee of seven members be appointed to consider the methods of teaching and studying governments now pursued in American schools, colleges and universities, and to suggest means of enlarging and improving such instruction." The following members were appointed by the president to constitute this committee: George H. Haynes, Worcester Polytechnic Institute; James A. James, Northwestern University; Mabel Hill, Billerica, Massachusetts, Frank E. Horack, State University of Iowa; F. C. Jacoby, Oklahoma City, and Jesse B. Davis, Grand Rapids, Michigan.

With Professor Haynes as chairman, the work of the committee was begun by making a careful survey of the activities of other organizations which are interested in political science instruction. Among such organizations, particular attention was given to the discussions and reports of the American Historical Association, the National Municipal League and the National Education Association, as well as the report on secondary schools by the committee of five of the American Political Science Association. The purpose of the appointment of the committee was brought to the attention of the various societies of history teachers throughout the country, and drafts of questionnaires were prepared for the investigation of secondary schools and elementary schools. Professor Haynes resigned from the committee in December, 1912, and in January, 1913, the present chairman was appointed. On taking up the work as thus far carried on, the chairman found that Messrs. Jacoby and Davis, on account of the press of other duties, desired to be relieved of the work which the investigations would involve. These vacancies were filled by the appointment of Professors J. Lynn Barnard, School of Pedagogy, Philadelphia, and W. L. Fleming, Louisiana State University.

The activities of the committee during the year were directed along three lines: (1) an investigation of courses in political science offered in colleges and universities; (2) a brief letter of inquiry regarding the status of instruction in elementary and secondary schools; and (3) an inquiry regarding the aid and encouragement given to instruction in civics by state departments of education. The committee is prepared to present data only on the first of these three lines of inquiry. A preliminary report dealing with instruction in political science in colleges and universities is presented at this time to indicate more fully the present status of instruction in this field and to give a better opportunity for the asso-

Hours and number of institutions offering each subject*

SUBJECT	TOTAL HOURS	INSTITUTIONS
United States constitutional history	14,076	160
English constitutional history	12,298	144
Total	26,374	
1. Constitutional Law	4446	63
2. American Government		
National, state and local	10,809	168
National	2,786	39
National, state, local and municipal	1,488	20
State and local	2,520	40
State, local and municipal	504	9
Municipal government	5,938	91
3. General political science	8,646	141
4. Comparative government	10,089	138
English government	2,334	34
5. International law	8,191	151
6. Diplomacy	3,840	49
7. Jurisprudence	3,291	55
8. Roman law	1,158	17
9. Political theories	3,120	43
10. Party government	2.030	42
11. Colonial government	1,218	22
12. Commercial law	2,488	42
13. Legislative methods and procedure	1,590	23
14. Seminar	786	37

* This table is based on data from 458 colleges and universities. It is impossible to present the complete table herewith. Arrangements are pending for the publication of the preliminary report of the committee with full list of tabulations. The details regarding the gathering of data and tables are omitted and the conclusions and tentative recommendations only are presented.

ciation to discuss the few recommendations which the committee ventures to offer.

Data for the report has been gathered chiefly from college catalogues and from a form of questionnaire submitted to about 500 institutions of collegiate grade. The members of the committee, with the very cordial aid and coöperation of ten members of the general committee, through questionnaires have secured returns from approximately 200 institutions and have examined the annual catalogues of about 500 institutions. So far as courses in political science have been discovered, they are noted in the table which is included as an appendix to the report. Recognizing that the results obtained are far from complete, the committee begs leave to present some of the data thus far collected and to offer a few tentative recommendations.

The committee is fully aware of the fact that many limitations beset any effort to present tables of courses offered in colleges and universities. The data is presented, however, despite many misgivings regarding both its accuracy and completeness, with the end in view of indicating roughly the relative distribution of time and emphasis given to various phases of the subject as indicated in the announcement of courses in college bulletins. From this standpoint the tabulations give a fairly definite idea of both the nature and content of the courses now offered in government in colleges and universities.

Courses and hours for the following subjects are included in the table:

1. United States constitutional history.
2. English constitutional history.
3. Constitutional law (chiefly United States).
4. American government.
    - *a.* National.
    - *b.* State and local.
    - *c.* Municipal.
5. General political science (courses based on volumes such as Garner, Leacock, and Gettell).
6. Comparative government.
    - *a.* General.
    - *b.* English.
7. International law.
    - *a.* General.
    - *b.* Diplomacy.
8. Jurisprudence.
    - *a.* Elements of law.
    - *b.* Roman law.

9. Political theories—based on works such as Dunning and Merriam.
10. Party government.
11. Colonial government.
12. Commercial law.
13. Legislative methods and legislative procedure.
14. Seminar.

CONCLUSIONS BASED ON THE TABLES

According to the number of courses announced, the colleges and universities may be roughly grouped as follows:

1. Institutions which announce no courses	122
2. Institutions which announce courses equivalent to less than 150 hours. (Slightly more than one course of three hours for a year)	161
3. Institutions which announce courses equivalent to more than 150 hours	175
Total	458

When it is recognized that 122 colleges and universities offer no work, at least so separately designated, in any of the courses listed in the committee's report, that 161 institutions offer courses totalling less than 150 hours, and consequently may be classed as not recognizing Political Science as deserving of a place in the curriculum as a distinct department, that 175 institutions give sufficient attention to the subject to recognize the department, and that only 38 out of this number separate the department of political science from history, economics, sociology, ethics or philosophy, it may well be asked whether the colleges are equipped either to train for citizenship or to prepare for the professions which require an intimate knowledge of governmental affairs. The demands of an awakened social conscience and the weighty responsibilities cast upon the electorate through the spread of direct democracy would seem to require greater consideration for the group of subjects comprised under political science than is now given in any but a small percentage of colleges and universities.

A large number of institutions which either offer no courses or announce less than 150 hours is made up of women's colleges, colleges of mines, agricultural colleges, schools of technology, and small denominational colleges, in some instances with less than one hundred students in the undergraduate department of arts and sciences. Women's colleges it may be claimed are not likely to have any special demand for instruction in government and political affairs, and consequently there are good reasons for excluding this group of subjects from the ordinary woman's college. However, not a few of the large colleges for women have found sufficient interest and enthusiasm in public affairs to offer some very thorough courses in political institutions. In some notable instances the colleges for women have given a recognition to these courses which many of the colleges for men might well emulate. There scarcely seems to be any justification today for the entire omission of courses in government from any college for women which has an undergraduate department of collegiate grade. One instructor who recently introduced three courses noted that, while he hesitated to give these courses "because of the fear that the young women would not take interest in such things," the results were very gratifying. There are many indications that courses in Political Science have rightly made their way into the colleges for women, and the time is apparently not far distant when those in charge of colleges of this type will give matters relating to government much greater consideration.

Colleges of mines, agricultural colleges, and schools of technology form a group under which the courses offered must be scientific and practical. These schools are primarily designed to prepare for one of the professions or vocations and there seems to be neither time nor occasion to give attention to such an impractical matter as government. If one may judge from the utter neglect of the study of political affairs in many such schools it seems that there is at present no recognition of the fact that the incipient miner, farmer or engineer may some day be called upon to take an interest in the affairs of his country. Nor does there seem to be any thought that it might be worth while, for but a small portion of time, to learn of the responsibilities and duties of social beings as well as of ways and means to earn a livelihood. That the miner, the farmer and the engineer should receive training along the line of their duties and responsibilities as social beings and citizens seems scarcely less imperative than that they should be trained as efficient producers. There is ample evidence that the efficient producer without a social conscience has worked much havoc and injury. If society is to be protected and its best interests conserved, the scientific, industrial and so-called practical schools must find both time and opportunity to give instruction in economics, sociology and political science. Both economics and sociology have slowly made their way into many of the technical and vocational schools. A few technical schools and agricultural colleges have introduced the important elementary courses in government, and there is no indication that the standard of work in technology has suffered particularly because the curriculum has been enriched by courses in political and social affairs. It remains to be seen whether society as organized in its legislatures, courts and administrative agencies will become a matter of sufficient significance to be given some consideration in all of the technical schools and may be deemed worthy of more attention by that group of institutions which depend almost entirely upon the state for existence.

The small denominational schools do not have large enough faculties or enough students in the collegiate department to offer more courses in political science. For schools of this sort the students are fortunate to get a mere introduction to the study of public affairs in the departments of history and economics or perchance in the departments of Bible and philosophy. Many of the smaller colleges would find it neither advisable nor practicable to establish a separate and independent department in political science. But few of these colleges, however, offer sufficient elementary courses in government to develop a virile and aggressive citizenship. An instructor in one of the small denominational schools makes the apology that since he is obliged to teach "nearly all of the history, the economics, and much of the Bible work" he can offer only one brief course in political science. For this situation there seems to be no remedy other than the fostering of a public sentiment which will require that these institutions raise their standard by such increase of endowment as will provide for a larger faculty.

The committtee approached with considerable hesitation the second object of its appointment, that of suggesting means of enlarging and improving instruction. In view of the difficulties involved in making recommendations which may be applied to the great variety of conditions to be met in the many colleges of the United States, the committee feels that a more thorough investigation should be made and a full opportunity for discussion should be afforded before final recommendations are adopted. It is of course quite evident that no standard plan of courses and no uniform method of instruction can be devised for the many types of colleges and universities. And the committee certainly disclaims any intention to prescribe a standard plan of courses in political science, which can be adopted indiscriminately by any higher institution. That something like a standard type of course has been worked out for certain groups of universities and colleges is, however, plainly evident. In accordance with the lead of some of the institutions, the committee ventures to offer a few recommendations in its preliminary report in order to arouse discussion and to aid in the formulation of some well defined features of an advance program.

The following recommendations are presented by the committee with this end in view.

1. That for the purpose of its report the committee considers the following courses as comprising, in the main, the scope of Political Science:

1. American government.
    - *a.* National.
    - *b.* State and local.
    - *c.* Municipal.
2. General political science.
3. Comparative government.
4. Constitutional law.
5. Legislation and legislative procedure.
6. Administrative law and administrative methods.
7. Party government.
8. Colonial government.
9. International law and diplomacy.
10. Elements of law, jurisprudence and judicial procedure.
11. Political theories.
12. Constitutional history and history of political literature.

At the outset of its investigations the committee was informed on good authority that there is no such thing as political science, and as the work of examining college catalogues progressed the truth of this observation became painfully apparent. Many colleges and a few universities seem disposed to use the term in designating the group of courses offered in economics and sociology, with little or no attention given to the courses outlined above. In other instances political science is used in a very comprehensive sense, covering the group of courses offered in history, economics, politics, public law and sociology. With the exception of a tendency toward uniformity in the courses announced by a few colleges and the larger universities there is a marked lack of agreement as to the meaning of the term political science. An illustration of this is shown where an institution with courses in political science as defined by the committee offers these courses under the heading public law and administration and uses the term political science to designate courses given in economics and sociology. Whether a standard and acceptable definition of political science can be given to which more than a few college and university instructors would subscribe is open to doubt. But however difficult it may be to define the term it is fundamental at the outset that there be an agreement as to what courses are comprehended within the field of operations of this Association. A more definite agreement as to what constitutes political science, and a more aggressive insistence on the necessity of distinguishing these courses from other groups, seems to be the first requirement to secure the recognition of political science as worthy of a place in the colleges as a distinct department.

2. That courses in political science be separated from courses in history, economics and sociology, and that colleges aim to have at least one instructor giving full time and attention to this department of instruction.

In a total of 401 institutions, the following results were obtained regarding the relation of political science to other subjects:

Departments of political science	38
Combined with history	89
Combined with economics	22
Combined with sociology	4
Combined with history and economics	48
Combined with economics and sociology	45
Combined with economics, history and sociology	21
Combined with philosophy	3
Combined with economics, history and philosophy	3
Combined with economics , history and English	4
Combined with economics and English	1
Combined with Latin	1
History, political science, and director of athletics	2

Combinations such as the following were made in some of the smaller institutions, the department including one or more courses in political science; history, civics, physical and moral science; English Bible, philosophy, pedagogy, sociology, and evidences of Christianity; economics, sociology, international law and Bible; exegesis, history and civics; political science, economics, philosophy and psychology; education, philosophy, religion and social science.

It is apparent from this table that very few instructors in political science give their entire time and attention to the subject. Consequently the great majority of those who offer courses in the subject are obliged to devote the major portion of their energies to another subject and to grant only an incidental interest and emphasis to courses in government. Some exceedingly valuable courses are offered, of course, under this plan and there are to be sure some advantages in the point of view that comes from the necessity of keeping in close touch with more than one field. But recognizing that when a man offers courses in history and economics he is not thereby disqualified for the giving of political science instruction, and making due allowance for the advantage that comes from the survey of other fields, it is undoubtedly true that political science instruction will as a rule not be placed on a plane to be compared with that of other departments until colleges give that consideration to the field which will demand the full time and energy of one man, at least.

The small colleges can only set up this standard as a goal towards which to lay plans. But an increasing number of colleges are not only providing for courses which require the time of one instructor, but, as in the case of history, economics and other departments, they are providing additional instructors to take care of the increase in student enrollment and to offer courses for which there is an evident need.

Furthermore, the arrangement of combining political science with other departments requires that an instructor who has received special training almost entirely in another field must by special efforts for the purpose prepare a course along a line in which he has had no particular preparation. As a consequence much of so-called political science is either political history or the economic foundations of government. Both of these subjects are important and it is right that much attention be given to them, but political science instruction almost invariably suffers when offered by one whose primary interest and preparation is essentially in another field.

The committee does not wish to be misunderstood on this point. They regard it as eminently desirable and necessary that there be full and frank coöperation among the departments of history, economics, sociology and political science. To this end a preliminary course which would deal with the underlying principles and the primary relations between the various subjects—something in the nature of an introduction to the social and political sciences seems indispensable—or, at least, regular lectures should be given dealing with the matters of common concern in the different departments. What is desired in the recommendation is more especially that the courses in political science be first organized as a distinct group constituting a department and that an effort be made to provide that they be offered by an instructor whose interest and training specially qualify him for work in this field.

3. That a full year's course in American government be given as the basic course for undergraduates.

The information available to the committee sheds very little light on the sequence of courses in different institutions. In fact, it is doubtful whether anything like a regular sequence of courses is followed in directing the election of subjects in the department. As a rule all of the courses are elective and frequently are open only to juniors and seniors. In a few instances one course is prescribed and usually one of the courses is made a prerequisite to the election of subsequent work. American government, general political science, and comparative government are the courses which are usually prescribed or are required as a prerequisite for the election of advanced courses. There is a difference of opinion as to whether the basic course should be in the field of general political science; *i.e.*, a study of *Staatslehre*, or in the comparative study of European systems, or whether the introduction to political science should come through a careful analysis of the American system of government.

On this point the committee does not desire to be dogmatic and to determine the relative merits of the different subjects as material for a basic course. A final determination on this point, if such is possible, would require a thorough and comprehensive study of the practice of many institutions. The committee has not attempted such a study and consequently has no desire to pronounce finally on the matter of the proper content of a basic course.

The committee, however, suggests the advisability of selecting American government as the basic course because it is convinced that there is an imperative need for a more thorough study of American institutions, because the opportunity for this study is not now afforded in any but a few of the best secondary schools, and because it is exceedingly important that the attention of an undergraduate be directed early in his course to a vital personal interest in his own government, national, state and local. Instruction in political science is rarely given until the second or third year of college work, and thus unless American government is selected for the first course only a small percentage of students receive encouragement and direction in the study of political affairs with which they are constantly dealing in their ordinary relations as citizens.

As in history, geography and other subjects, there is a tendency in courses in political science to deal with matters far away rather than to turn to those which are nearer home. The large amount of time and emphasis given to the study of such subjects as general political science, comparative government and international law shows that foreign affairs receive more attention than do home affairs. One is led to suspect that it is safer for political scientists to deal with political theory and with the

Prussian administrative system than it is to delve into the inefficiencies of county or city government, just as it has proved easier and more comfortable for the church to evangelize Asia than to try to reform social conditions within reach of the church door.

To create an abiding interest and an intelligent outlook in matters of political import must be the constant aim of instruction in government. For this purpose the study of both American government and comparative government is necessary, and it is probable that the most effective and useful course in American government is one which introduces by comparison European systems and practices.[1] But the committee is of the opinion that, despite the very marked increase of courses in American government within the past few years, one of the immediate needs is the further extension and enlargement of these courses. In only a few institutions is enough time given to the subject to permit anything more than the most cursory survey of the various features of the government, and almost invariably state and local government suffers in the cutting process which is necessary. About seventy institutions only give courses in which state and local government are the basis of special study. All indications are to the effect that the national government receives undue attention. Similarly, it is quite clear that legislative machinery and legislative processes are given emphasis far beyond the importance which this branch of government deserves when the actual operation of public affairs is taken into consideration. In order that state and local government shall be given more consideration, and in order that judicial procedure and administrative methods shall receive more than passing notice, it is absolutely necessary that the time allotted to American government be increased. Nothing short of a full year of at least three hours a week gives the necessary time and opportunity to do anything like full justice to the national, state and local units. For the present at least it seems clear to the committee that American government should receive primary emphasis.

4. That the scope of comparative government be enlarged to include a study of the self-governing colonies, South American republics, and important Asiatic nations.

It is by no means the intention of the committee in submitting this proposal that courses in political science should be spread over a wider field than is now frequently the case. If one may judge from the announcements in certain catalogues, the necessity of restricting the scope covered in order that what is done may be done thoroughly is very apparent. Such forms of announcement as the following, although not common, are discovered too frequently in college bulletins:

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[1] Professor Dawson thinks it is essential that European methods and practices be introduced by comparison in this basic course.

(1) Comparative constitutional history given for one-third of a year, five hours. "This course will include a study of the development of the fundamental political activities found among the nations of Europe and America, tracing in outline the growth and spread of modern constitutionalism through the great political revolutions of England, America and France, and concluding with a comparative survey of their modern political institutions."

(2) One hour a week is given to political science and modern history and for this work the announcement is made that "Thus the art of public address is developed, while the student becomes an original investigator in the field." In other instances colleges appear to devote a few hours for a third or a half of a year to the subject of comparative government, and by profession at least wander over the range of governmental systems, comprising the United States, England, France, Germany, Switzerland, Italy, Austria, Hungary, Holland, Belgium, Denmark and Sweden, while a few manage to give some attention to Spain and Portugal. This Association would scarcely desire to lend its encouragement to a plan which would further dilute the type of information conveyed by this kind of course. If such were to be the result of the proposal herewith made, the Association would undoubtedly better serve the advancement of its field by advising a restriction rather than an enlargement of the field for the comparative study of governments.

With the definite understanding that it is not intended that instructors shall cover the entire political universe in the short time now allotted to comparative government, but that rather by a system of alternation in courses place be made for much neglected nations, the committee desires to urge greater consideration by political scientists for the self-governing colonies, South American republics and the great Asiatic nations. According to the notices in many catalogues the horizon for the comparative study of political institutions is confined to the four nations, England, France, Germany and the United States, which seem to be heralded not only as the political nations *par excellence* but are also regarded as having established somewhat of a "corner" on political wisdom. While there are good reasons for giving chief attention to the institutions of the above countries in the colleges and universities of the United States there is scarcely any excuse for the utter neglect and widespread ignorance which now prevails relative to such nations as Canada, Brazil, Chili, Japan and China, and which the colleges thus far have done little to correct.

If for no other reason it would appear that for the sake of policy and expediency more attention than is now given should be accorded by the educational system of the United States to the nations which border on the north, south and west. But the modifications of the parliamentary system of government as it operates in Canada and Australia has a peculiar interest to Americans and we can no longer afford to neglect the successful forms of government to be found in the self-governing colonies. Similarly, some of the experiments being tried in the great nations of Latin America are not only very interesting but would seem to be worthy of study in college courses. The unique form of government in Japan and the laying of the foundations of constitutionalism in China are not unworthy of some attention. At any rate the committee believes that either by the addition of an extra course or by alternation an arrangement can be made by which some at least, if not all, of the great American and Oriental nations may be made the basis of courses in political science. The neglect of South America, its history, ancient civilization and modern institutions, and the inordinate misconceptions prevailing relative to Oriental life and progress, can not be overcome until the colleges and universities give a greater place in the curriculum to a study of these civilizations.

5. That an effort be made to redistribute the emphasis in courses in government so as to give less attention proportionately to governmental structure and legislation and to devote more time and emphasis to administrative methods and law enforcement.

So far as it is possible to judge the content of courses by the brief announcements contained in college catalogues it appears that primary consideration is given to constitutions, to administrative systems and to the organization of political parties. In the courses in American government the national government receives most attention, state government next, and then come in order local, municipal and rural. The proportionate distribution of time which results leaves but little opportunity to deal with local government and gives but scant attention to the judiciary. Not only do national governments absorb a large part of the time given to the study of government but political theory also claims a large share of time. Between what is to a large extent constitutional and administrative law on the one hand and the study of abstract theories about government on the other the judicial department and law enforcing agencies of the community have been well nigh ignored. In view of the fact that no small part of law is made by the courts, and that the average citizen is affected most by the rules as laid down, interpreted and applied by the judiciary, it seems strange that the spectacular side of the legislative hall should have so completely diverted the attention of students of government from judicial procedure and administrative practice. An eminent lawyer has observed that "new law in Anglo-American nations has been the work of judges and their lawyers aided or interfered with only occasionally by statutory provisions." But the fact that courts bear a large part of the burden of law making, besides taking care of the whole process of law enforcement, has been very tardily recognized by instructors in government.

The judicial department has in fact received scant attention by text writers, while judicial procedure, a subject of the utmost importance, has found a place in the curriculum of only a very few institutions separate from the attention given the subject in law schools. According to one of the leading instructors in public law the whole tendency of jurisprudence today bears out the contention that more emphasis should be laid upon administrative methods and law enforcement. "Instead of devoting our whole time to the abstract justice of abstract rules we are beginning to devote our attention to the results of rules in action and the modes of making them effective in action. The reason upon which this movement is based would seem to apply equally in political science."[2]

6. That instructors in political science encourage students to prepare reports and surveys on actual political conditions.

7. That the department of political science furnish aid and be in readiness, in equipment and spirit, to render advice to government officials not only in the making and enforcing of laws but also in extending assistance in whatever special fields the instructors in the department are competently equipped.

Suggestions 6 and 7 may very properly be considered together. They both refer to ways and means by which the departments of political science may become interested and helpful in an effective way in local and state governmental affairs. The first suggests a method by which knowledge of political affairs may be translated into civic action by the students themselves, and the second calls attention to a responsibility which instructors in political science have been slow to recognize—that of placing the department in readiness to serve public officials. The charge has been made that while the universities, in an organized and systematic manner, blaze the way in agriculture and in many other lines they very rarely serve as laboratories and investigating outposts for the political affairs of the state. To quote the words of one of the members of the general committee of this Association, "in politics, the university investigators write books which other university men read, and meantime the practical work of government blunders on, struggling as best it can on the knowledge and experience which universities could collect."[3]

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[2] From statement by Prof. Roscoe Pound.

In answer to the inquiry as to what colleges are doing in the way of service to the community and state many instructors gave no reply; others replied that the department was doing nothing specific but was trying to be generally useful, or that service to the community was rendered not directly but indirectly in teaching students. A large number of instructors indicated that they regarded their duty to the community fulfilled in the training of future citizens. On the other hand, more than forty institutions reported a very active interest in and coöperation with the officials of the city, county and state. The form of this cöoperation was along the lines of the organization of civic clubs, the making of surveys of local political conditions, the issuing of bulletins, the publication of articles in the newspapers, and the rendering of service on unpaid boards, commissions and constitutional conventions. A rather unique service was rendered by one college in the preparation of a bill for voting by mail and in the attempt by the department to stimulate public interest in the measure while it was being considered in the state legislature. The most noteworthy service of this character appears to be rendered by means of the establishment and operation of reference libraries or bureaus of information on state and municipal affairs. Although this form of library is of quite recent origin a large number of colleges and universities are now maintaining reference bureaus. This form of service seems to be more especially within the function of the state universities, but private institutions have also engaged in work of this character.[4]

Difficulties are encountered in rendering community service. The head of the department in one of the colleges reported that he tried to serve the community and then closed with the comment, "this community is like the laws of the Medes and the Persians. As evidence these courses have been cut out by the powers." Evidently the way of the expert in political science is not always an easy one. It is more difficult perhaps than in any other line to keep to the straight and narrow path which will mean the advancement of the best interests of the community and not to become involved in the torrent of political partisanship. But the fact that service of this character is difficult, or that it may lead to trouble, is no excuse for shirking entire responsibility for that assistance and guidance which departments of political science should be equipped to give and which most communities would really appreciate.

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[3] From statement by Chester H. Rowell.

[4] The committee on practical training deals in a very thorough manner with the service rendered by reference libraries and other forms of public service in which members of departments of political science are engaged.

Departments of political science are called upon to perform services of three distinct types: (1) to train for citizenship; (2) to prepare for professions, such as law, journalism, teaching and public service; (3) to train experts and to prepare specialists for government positions. For the universities a fourth group might be added including courses primarily intended to train for research work.

Universities alone can properly plan to prepare government experts, who in many instances must receive specialized instruction such as the departments of political science can offer only in part. Courses designed to prepare for research must also be left largely, if not entirely, with the universities.

The function of college instruction in politics is to train for citizenship as well as to train for the professions. In performing this function colleges too frequently confine attention almost exclusively to the theories of the origin of the state and the nature of law and sovereignty, in fact, to a consideration of abstract notions and principles which find scant place in the actual operation of governmental affairs.

Much of what is comprehended in these abstract discussions is based upon theories of law and jurisprudence which modern publicists are prone to condemn. However, it is very gratifying to find a marked increase in the attention to *Staatslehre,* to state-theory in contrast with state-practice. The history of political ideas, as well as wrangling over such terms as sovereignty, liberty and law, ought to be encouraged rather than discouraged. But there are indications that political science, in some quarters at least, has been too strictly confined to theories about civil society and has been too little concerned with political affairs as they are. Students of politics like those of other fields have been inclined to philosophize and work out abstract principles rather than to search laboriously the records and activities of society in its myriad and complex operations. It is not proposed that less attention be given to political theory for this subject eminently deserves the emphasis given it, as a rule, in college courses, but it is rather proposed that the work in political science be expanded so as to complement the theory and the abstract discussions with greater consideration of the actual working of political institutions.

Political science is scarcely old enough, particularly as pursued in the United States, to take on the full stature of a well developed science. The catalogues of our larger universities prior to 1890 seldom recognized political science as a department but announced a few courses in government under the divisions history or political economy. It is slightly more than thirty years ago that the first schools of political science were opened. And the fact that this Association is in its eleventh year indicates the recent emergence of the subject from a position of relative obscurity in relation to other departments. In view of the short time the study of government has received any attention or recognition from college authorities the present status of the subject is not discouraging. The widespread interest in the subject and the rapid expansion of courses in the higher institutions is nothing short of remarkable. But much remains to be accomplished to give instruction in government a rightful place in many institutions which now ignore the matter entirely. The character of some instruction that passes under the title needs to be considerably improved to be worthy of more consideration by men of affairs. And some readjustments of emphasis and proportions must be made in political science to keep pace with the rapid strides in other branches within the general group of social sciences.

The data gathered by the committee is presented in a preliminary way and in fragmentary form. Problems are raised and difficulties encountered as the laying of ground for more definite conclusions to follow. Mindful of the limited range of its survey the committee offers what data it has with a few recommendations. It is hoped that these will serve to arouse discussion and to bring matters to a focus, so that before a final report is prepared some definite and well matured conclusions may be formulated and advanced with the united support of the Association. In the meantime more information must be gathered relative to the training of teachers now offering political science, to the time given to other subjects, and to other lines of inquiry which affect the efficiency of instruction in the field. Furthermore, the sequence of courses should be considered; which should be regarded as elementary; which advanced, and which reserved for graduate departments. Finally the entire field of secondary and elementary school instruction must be exhaustively investigated. These and other matters of vital significance would seem to warrant the continuance of the committee, or the appointment of other committees, to carry on the investigations so far only begun and to formulate a plan of campaign for the improvement of instruction in political science from elementary school to college.

Respectfully submitted by the committee:

Charles G. Haines, *Whitman College, Chairman,*
J. Lynn Barnard, *School of Pedagogy, Philadelphia,*
Edgar Dawson, *Normal College, New York,*
Mabel Hill, *Dana Hall, Wellesley, Massachusetts,*
F. E. Horack, *State University of Iowa,*
J. A. James, *Northwestern University,*
W. L. Fleming, *Louisiana State University.*

DISCUSSION

Prof. E. M. Sait spoke briefly of the importance of student organizations in connection with the formal work of political instruction. He called attention to the work being done by the Intercollegiate Civic League, and by the individual clubs in various universities which constitute the members of this league. These clubs have undertaken, in many cases, independent investigations of political questions, and have not only aroused the interest of their members, but have done work of concrete value in their communities.

Dr. Arthur W. Dunn, chairman of the committee on civic education of the National Municipal League, called the attention of the Association to the work of the Georgia Club, which has established county branches in the greater number of Georgia counties, and has stimulated very materially the interest in local government, social and economic problems in that State. A detailed account of the Georgia Club will be found in Bulletin No. 23 of United States Bureau of Education for 1913.

Hon. P. P. Claxton, commissioner of education, commented upon the emphasis which the previous speakers had placed upon the need for practical instruction in government, and spoke of the importance, here as elsewhere, of the principle of learning by doing. Mr. Claxton said that the bureau of education would be glad to do anything in its power to aid the investigation undertaken by the Association's committee.

Professor Dealey in substance spoke as follows:

I wish to express my hearty appreciation of the excellent report made through the chairman of the committee. If the committee will continue its studies in the same thorough manner, the final report will make an epoch in movements for civic education. I am especially interested in the two addresses urging a broad civic training in the grades and in the secondary schools. In place of the three "r's" of a century ago, teachers in the elementary schools are now urged to emphasize applications of the three "s'es," namely; science, psychology and civics; as the result of which we may expect in the future a better trained and more capable citizenship. Teachers for these schools come largely from normal schools which should in consequence train their pupils so as to satisfy the demand for civic instruction. High school teachers come mostly from the colleges, which, therefore, must furnish definite instruction in the social sciences, so that students may be able to comprehend the social, economic and political movements about them.

In closing, Professor Dealey explained some of the practical methods used in the teaching of political science at Brown University.

Professor Clyde L. King said:

I think all teachers of political science will agree that it is their first business to teach.

The subject that they are to teach is government. If political science is to be so taught as to have its greatest value, emphasis must be placed on actual government, not the form of government.

The structure of government, the subject that has taken up so largely the time of political science teachers in the past, is of interest only because it is the machinery through which acts are made legal and valid. The thing being done, therefore, not the machinery by which it is simply made valid, is the important thing.

If government is to be taught in a way to have interest to the student at the time and value to him in his later life, it must stress actual government; and the significant factors in actual government are the law-creating and not the law-making forces. This takes attention from the structural plan of government, therefore, to public opinion, to the power of tradition, to the place and influence of the political party and other civic associations, to the groups that make demands on government, to how those demands are expressed, and to the forces and agencies by which those demands are brought before legislative, executive and judicial bodies, and only incidentally to the final machinery through which these forces find formal expression.

It is easy enough to say that our new constitutions are "new fangled;" it is more difficult to get the student to see exactly the forces that have led the people to write into their fundamental laws so many statutory provisions. It is easy enough to characterize the present situation as that of a "mob led by a demagogue," and to say that we should have government by those "selected to lead;" it is difficult to get the student to grasp the processes of the social mind so as to get the significance of the vital evolution toward government that is now going on.

To my mind, therefore, the question as to what amount of time should be placed on federal, or local, or state government is a matter of the location of the institution, and of the interests of the student body. In certain institutions and among certain classes of students, greater human interest would, no doubt, be aroused through the study of local and of federal government; in other places, in municipal and state governments. Whether the course treat of federal, or state or municipal government, therefore, is not of such great importance as that the teacher emphasize the forces in actual government and lead the students' minds from the formal thing to the creative thing.

The teacher has long been told that his main function was to "set the pupil's heart right." It is his equal function to "set the student's facts right." Now the only person at all qualified to teach the actual facts as to government, it seems to me, is the one who has been, himself, a part of the creative forces that make government. He who reads from the text-book and repeats what is in the text-book without having lived through what the processes of government really mean will never make a teacher worthy of the student, be the student in the grades, in the high school or the university.

The fundamental business of the teacher of political science is to train for citizenship, and no one is trained for citizenship who does not have his mind taken from the formal things in government to the actual things. This can be done only by the teacher who is himself a factor in government processes.

For these reasons, I wish to emphasize the recommendations made by the committee that in letter and in spirit, the teacher of political science aid governmental officials not only in making but also in enforcing laws, and more particularly still in the expert service for the official and community in whatever fields the instructor is qualified. Only through such service as this can the teacher develop a sense of what are the living creative factors in his subject.

Dr. Arthur W. Dunn, Secretary of the National Municipal League's committee on civic education, spoke to the following effect:

The problem of whether national or local government should be treated first would take care of itself, or rather there would be no such problem, if the subject of civics were approached properly through function and not through mechanism. An illustration is found in a recitation that actually occurred in a grammer school class in which the subject of what the community does to protect the health of each individual was under discussion. The children had brought out the dangers in health to community life, the dependence of each individual upon others, the necessity for coöperation and the function of government as a means by which the people should coöperate for the protection of their health. After mentioning a number of local health functions of the community, one child remarked that the board of health passes pure food laws. This was immediately disputed by another child, and the question of national activity in behalf of pure food was immediately injected into the discussion. The point is that in a single recitation national and local activity and machinery were discussed in their relations to each other and in their relations to the life of the child. If pure food had happened to be mentioned first, the national activity would have been discussed first.

In regard to the question that has been raised of how to stimulate the interest of students in what they receive in the class room, and to relate in their minds the facts of real life to their class room instruction, it might be helpful if we could be less anxious about interesting the pupil in what we give in the class room and give more attention to giving in the the class room what is of vital interest to the pupils.

The college teacher is face to face with a real problem in that the students who come to him are not really prepared for the courses in political science. The college teacher therefore has a real interest in what the secondary and elementary schools are doing. The best kind of preparation of the younger pupil for his college work, however, is not an elementary course in political science, but a course of training that will cultivate the qualities of good citizenship and that will stimulate his interest in the community functions that are performed through the agency of government. Then when he comes to his college course, he may have a real motive for the more technical matter usually presented to him.

Prof. E. M. Sait of Columbia University said:

Professor Dealy has emphasized the desirability of combining concrete experience with class-room work in government; and in some of those who have come under his inspired guidance—as Professor McCarthy, who is with us today—give ever-present support to his view. I also have entertained the same feeling. There is one very good reason why we should pursue this course. Many observers have remarked that American students, as distinguished from English or French or Russian students, give very little attention to their subjects of instruction outside the class-room. They do not commonly discuss these subjects seriously among themselves; they do not give them much independent thought. When the bell rings at the end of the hour, the undergraduate enters a different world; his mind turns to other preoccupations, such as baseball, the Junior "prom." According to his code there would be something verging on the improper in carrying the influences of the class-room with him. It would hardly occur to him to discuss with his fellows the problem of "log-rolling" or the national budget.

We have got to teach our students how to think; and that is one reason why I feel so deep an interest in the functions of our civic clubs. Seven years ago the Intercollegiate Civic League was founded. Largely through the devotion of Mr. R. Bayard Cutting, it has expanded to include active clubs in some sixty colleges. These groups are not avowedly adjuncts of the departments of political science as a rule; but they do greatly promote interest in these departments. In the bi-weekly or monthly meetings, vital questions which have been suggested in the classes come up for informal discussion. Members of the faculty, or politicians, or selected students consider such questions in all their practical bearings; everyone is encouraged to participate afterwards. An intimate observation of these clubs, spread over some five years, persuades me that no better instrument can be found to break down that curious reserve which makes our students feel almost ashamed to turn serious attention outside the class-room to the things which are supposed to form a part of their education and their preparation for citizenship.

Here we have a problem of some magnitude: how to make the things which we teach really count; how to make the lecture fructify in thought and discussion. Is not the civic club, in which the student so readily interests himself, a solution conveniently at hand? Would it not help to break down the elaborate barriers which the student has erected about his extra-curricular life? And if it can provide the solution, does not something of an obligation rest upon us to employ it?

REPORT OF STANDING COMMITTEE ON LEGISLATIVE METHODS

Your committee on legislative methods has been in coöperation with a special committee of the American Bar Association on legislative drafting of which the chairman of your committee was a member, and to the printed report of which, presented at Montreal on September 2, 1913, it begs to call attention and make reference.

The existing widespread movement toward improving legislative methods has two very different sides: one relating to the content, and the other to the form of legislation, the former being concerned with the collection and digesting of information and reference material to be placed at the disposal of members of the legislature, the latter with procedural safeguards aiming to secure a careful scrutiny of bills, and with the creation of a drafting service as an aid to the legislature.

Your committee has given its attention chiefly to the latter side of the problem.

1. ORGANIZATION OF DRAFTING SERVICE

According to a statement prepared by Mr. H. Goddard of the Legislative Drafting Association of New York for the committee of the American Bar Association (see *Report*, p. 15, appendix A), there were at the beginning of the year 1913 eleven States which had made provision for a legislative reference service distinct from drafting service, three States which had made provision for drafting service distinct from reference service (but these three States: Connecticut, Massachusetts and New York, had also provision for reference service) while in nine States the two services were combined in one bureau. In 1913 Illinois (named in the first list of eleven States) made provision for a reference bureau, which is also to render assistance in drafting, so that this State will have to be added to the last list; and there may have been other changes and additions in the present year.

The legislative reference bureau and the drafting bureau should be under one single director. They must coöperate closely and it is visionary to expect that two separate heads will work together in the peculiarly close manner required for the greatest efficiency in this work. The primary purpose of the legislative reference bureau is to supply the drafting bureau with the exact data and models required for drafting. It must be the collecting and classifying agency to serve the drafting bureau. To do this it must have intimate touch with the actual work and needs of the bill drafters. On the other hand, the draftsmen should at times be a part of the reference bureau in order that they may have their grasp of the subjects more firmly fixed and be able to utilize better the fruits of research made available through the reference work and in order that they may, by suggestions from experience, strengthen the reference work. The point of view of each must be kept constantly before the other. The reference bureau's work will be ineffective if it is not organized with fine precision to meet the needs of the drafting bureau and the drafting bureau will bring few of the good results which should come unless it is willing and able to profit by the researches of the reference bureau.

It should be emphasized that no library, no matter how exhaustive its collections, can be effective for the drafting bureau. It requires only a small working collection of the essence of things in books, reports, pamphlets, etc., drawn off from the great masses of information and so arranged as to do the exact work desired. The legislative reference library should be one which serves the workers and not merely the thinkers. The man who uses its materials has not the time or the inclination to make exhaustive researches. If he had there would be less need of this kind of a library.

The work of two bureaus requiring such intimate relations and such precise coöperation should in the very nature of things be under one control. It is presuming too much upon the pliability of human nature to expect independent bureaus to work harmoniously for the best ends. Mutual jealousies and misunderstandings are almost certain to mar the work if the two bureaus are made separate.

The best method would seem to be to have one director supervise the whole operation with a bill drafting department and a legislative reference department under him.

The provision for the personnel of the drafting service should be such as to protect it as far as possible from "political" appointments. In view of the possibility of influencing the effect and policy of a measure through verbal changes which are apparently slight or the effect of which is not obvious, it is of the utmost importance that draftsmen should enjoy the absolute confidence of legislators, and that in their turn they should have that professional sense of pride and devotion with reference to their work, with a reputation at stake in its proper execution, which can hardly be expected in places which are known to be distributed on the basis of political service.

The most effectual means of producing this result is the placing of the drafting bureau under civil service rules, or where the civil service laws do not extend to the legislative department, under regulations of a similar character securing selection on the basis of merit and experience, and this method should be applied to the head of the bureau as well as to subordinate positions in it. The practice said to prevail in Connecticut according to which the clerk of bills (the drafting official) expects to advance at the next session to another place, must from this point of view be prejudicial to the most effective organization of the drafting service (see p. 31, *Report of American Bar Association Committee*).

If the work of drafting bureaus is to produce in course of time scientific principles of statute drafting your committee deems it important that there should be some medium of exchange of information with regard to interesting problems or significant developments in statutory legislation. Without some such organ no movement can hope for vitality or unity of purpose. The "Legislative notes" of *The American Political Science Review* may be advantageously used for this purpose, but during legislative sessions drafting bureaus should coöperate in the publication of bulletins of information through which items of legislative interest might become known within the shortest possible space of time.

2. CHANGES IN LEGISLATIVE PROCEDURE

It is a common experience that more attention is given to form and language in bills prepared by commissions or government departments having the benefit of expert assistance, than in bills owing their introduction to the initiative of members and prepared in the office of some private practitioner. Everything, therefore, that favors bills of the first description is apt to mean a gain for a higher standard of draftsmanship.

In *The American Political Science Review* of May, 1913, Representative Hull of Illinois comments upon a rule which the house of representatives of that State adopted at its recent session, whereby one morning of each week was set apart for the consideration in committee of the whole of measures recommended by the governor. The recognition and preference thus given to administration bills will naturally tend to place upon the executive department an increased responsibility for their form as well as their substance, and may in course of time result in the regular employment of expert assistance in the drafting of these measures.

Still more significant was another proposition, likewise offered in Illinois, to establish a joint legislative commission composed of the governor, lieutenant-governor, speaker of the house, chairman of the committees of appropriations of the senate and the house, chairman of the committees on judiciary of the senate and the house, together with five other senators and five other representatives, to serve until the convening of the next general assembly, charged with the duty of formulating a legislative program and preparing the necessary bills, and empowered to act through committees appointed from within or without its membership.

As passed by the legislature, however, the bill transformed the commission (omitting from its proposed membership the presiding officers of the houses and the ten members at large) into merely a "joint legislative reference bureau" with power to establish a reference and drafting service.

The plan as originally proposed might have been developed into an efficient organization for giving to the work of preparing legislation that continuity and systematic control which it now lacks entirely; and would have allowed of a much more perfect maturing of legislative projects than is now generally obtainable. Some such measure which is probably everywhere possible without constitutional amendment deserves the serious consideration of other States.

Under our system of government it would not be practicable, and probably not desirable, to reduce the initiative of private members in legislation to that insignificant place which it holds in European countries. Perfect liberty of introducing bills necessarily produces considerable variety and independence of style, and practically results in much futile and misdirected effort. Some of the undesirable effects of the system might perhaps be avoided by a relatively simple expedient. Legislative rules might well provide that bills should be introduced only on blanks furnished by the clerk. These blanks would naturally contain a correct enacting clause, and it would be easy to print on them simple directions regarding title, etc., with references to constitutional requirements and house rules. If a legislative body thought fit, it might require space to be provided on these blanks for brief statements regarding the source and sponsorship of the bill, its desired effect and the present state of the law, and giving other similar information aiding an intelligent understanding of the proposed measure. All this could probably be accomplished by a simple house rule.

3. FORMULATION OF DIRECTIONS AND MODEL CLAUSES

It is hoped and may be expected that the general establishment of drafting bureaus will lead to the development of scientific methods of legislation, that is to say, methods of drafting which will secure: conformity to constitutional requirements and to other principles approved by experience; adequacy of the provisions of the law to its purpose; coördination with the existing law, and the utmost simplicity of form consistent with certainty.

It deserves however serious consideration whether something cannot be done at the start to aid and direct the work of draftsmen, many of of whom inevitably will be relatively untrained and inexperienced.

The *Report of the Bar Association Committee* contains the following observations upon this subject:

> The efficiency of the drafting service depends not only on the personnel, and on the recognition of certain fundamental principles of organization and operation, but also, your committee believes, on the existence of a harmonious body of principles to be observed in the drafting of legislation. It is, however, obvious that some systematic plan and effort will be needed to produce a harmonious body of principles which can be used by drafting bureaus.
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> As we look to constructive work in economic and social science to furnish principles of legislation on its substantive side, so we have to look to legal science to furnish such principles for the formal or technical side of legislation. Thus the history of liquor legislation in this country furnishes much valuable data in the matter of law enforcement which should be made available in the drafting of other classes of statutes; the same is true of factory and labor legislation for the problem of meeting the most obvious contrivances for evading statutory requirements.
>
> Unfortunately there is no book written in the English language discussing, in the light of administrative and judicial experience, the legal ways and means by which a given legislative policy can best be rendered effective, or the arrangements and institutions which at present serve that end. The reason for this must be found in the large commercial demand for legal works available for the business of litigation, which has absorbed the attention of jurists to the utter neglect of scholarly or literary service to the no less important business of legislation.
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> The lawyer's treatment of the law is analytical, the legislator's constructive. To the lawyer it is a fixed quantity to which he must

adjust himself, to the legislator a potential force which he may fashion for his purpose. Obviously, the two points of view are entirely different. The material that the lawyer needs has been collected and digested with a degree of completeness that leaves hardly anything to be desired. But while the legal material that the legislator needs, the history of statutes and of their construction by the courts, may also be found, to a considerable extent at least, scattered through the law reports, there is no key to it through digests or treatises adapted for his purposes. In many cases the attorneys of private interests alone possess the knowledge that is needed for intelligent legislation and the public does not always profit by that knowledge.

Your committee, therefore, submits that the Association should lend its influence and aid toward the work that needs to be done in this field. The object to be aimed at ultimately would be the production of something like a legislative manual or code, a collection of directions or suggestions to draftsman, and of model clauses for constantly recurring statutory provisions and problems. Carefully worked out, and having the sanction of the approval of representative bodies of lawyers and of students of legislation, such a guide could not fail of having considerable effect on drafting all over the country, and the establishment of drafting bureaus would be appropriately supplemented by giving their work from the very start a scientific and uniform direction.

There is also printed in connection with the *Report*, as Appendix C, a somewhat elaborate tentative draft of a topical plan for instructions to draftsmen and model clauses, an abstract of which follows this report.

The elaboration of this entire plan would be a work of several years; but some topics might be taken up as a beginning in order to determine whether the plan is feasible or not, and the following topics are suggested for this purpose: title; amending acts; general arrangement and language; referential legislation; adoptive acts, and penalties.

A further and much simpler step in the same direction would be to collect and make accessible all "model bills," drawn up under the auspices of associations representing particular interests. The following may be mentioned as bodies promoting legislation in particular fields: Commissioners on Uniform State Laws; National Association of Credit Men; National Drainage Association (model drainage law); National Tax Association; National Board of Fire Underwriters (building code, etc); American Vigilance Association (vice); National Housing Association (tenement housing); Legislative Drafting Fund (Columbia University); National Civic Federation; American Automobile Association; National Fraternal Congress (regulation of fraternal orders); National Petroleum Associations (oil inspection); Investment Bankers Associaation of America (blue sky laws); National Association of Real Estate Exchanges (conveyancing, licensing of real estate agents, etc.); American Mining Congress (mine accidents); National Consumers' League (women's labor); National Child Labor Committee (child labor); National Association of Dairy and Food Commissioners (pure food, cold storage, sanitation, etc.); National Board of Censorship of Moving Pictures; National Fire Protection Association; National Popular Government League; Governor's Conference.

Some of the bills thus produced represent not only the best information upon the respective subjects, but show also very considerable care in drafting; so the public utilities, workmen's compensation, child labor, model safety and pure food acts.

Many of these bills or acts contain clauses that can be made readily available for legislation on allied subjects.

A topical plan of standing clauses and directions should also be of value in the work of preparing indices of legislation. The librarian of congress has for a number of years recommended to congress the undertaking of a comprehensive comparative index of American statute law. If the work should be done with the same limitations that may be observed in all previous indices, it would in important respects fail to serve the purposes of the draftsman. Taking as an example Scott and Beaman's *Index Analysis of Federal Statutes,* in many respects a standard work, the student of the history of legislative methods is very apt to be disappointed in consulting it for his purposes. He desires to trace the use of oaths, of informers' shares, of forfeitures in the legislation of congress, and in looking up these words he will find a reference "see under Specific Topics." This practically means that he must search through the statutes as if there were no index. Or to give another illustration: mothers' pension laws are one of the interesting new phases of American legislation. Their significance is, of course, primarily sociological. It appears, however, that the pensions in some jurisdictions are granted by court orders. This means an entirely new method of administering charity, and to the student of legislative methods this is as important as the new substantive departure in giving relief. Yet it is safe to say that the ordinary index would give no clue to this innovation. Obviously it is only through a scientific topical plan of provisions regarding administration and operation, that attention can be directed to these developments and that a science of law drafting can be built up.

If the desirability of establishing some standard of drafting should be questioned, it ought to be sufficient to cite the recent income tax act in support of the plea for reform. Measured by any kind of a standard of draftsmanship the act is certainly all that it should not be. As an act which addressed itself to business men and property owners, making considerable demands upon the conscience of the tax payers and imposing obligations touching the routine of management of pecuniary affairs, this act, above all others, should have been plain and lucid in its arrangement and language, and should have made its obligations unambiguous in substance, definite in incidence, and reasonably capable of discharge. Instead of this, the act is the most perplexing measure that has issued from congress in many years. Its arrangement and the numbering of its clauses is extremely inconvenient for the purposes of reference, the terminology used is not consistent or distinctive, and often vague and indefinite. And yet the general impression seems to be that these defects of expression are in some way inevitable and inseparable from this kind of legislation. This, of course, is not true. If the style of the English income act is likewise involved, it is because it antedates the reform of English legislative style, and the Prussian law shows that even an income tax law can be clear and intelligible, and that we are suffering simply from a bad tradition which ought to be broken. A glance at the new federal reserve act will demonstrate the possibility of writing a complicated law in clear language and with a due regard for the orderly arrangement of its parts. A comparison of this act with the Tariff Act or with the pending Immigration Bill shows that congress absolutely lacks a uniform standard with regard to the formal side of its business, a fact which it probably fails to realize.

If your committee is continued and authorized to undertake the formulation of propositions upon the topics indicated, for further report next year, it is hoped that it will have the coöperation and aid of the Bar Association committee. It is not intended that either of the two associations should at present be committed to the endorsement of any particular plan, but all that is asked at present is leave to undertake the working out of drafting principles on selected topics and to present another report next year.

Ernst Freund,
John A. Lapp,
Frank A. Updyke.

APPENDIX

ABSTRACT OF A TOPICAL PLAN FOR INSTRUCTIONS TO DRAFTSMEN AND MODEL CLAUSES

A. Expression in general

1. Title.
2. General arrangement.
3. Amending acts.
4. General provisions regarding language.
5. Referential legislation.
6. Definitions.

B. Operation

7. Provisions for taking effect of act.
8. Time limit and temporary acts.
9. Transitional provisions.
10. Repealing, saving and limiting clauses.
11. Adoptive acts.
12. Optional acts (i.e., for individuals).

C. Substantive requirements

13. Persons charged by act.
14. Qualifying clauses and exceptions.
15. Reference to intent.
16. Presumptions.
17. Generic and specific requirements.
18. Requirements with a view to publicity.
19. Facilities for discharge of duties.
20. Securities of compliance.

D. Administration

21. Designation of officials.
22. Qualifying for office; exercise of powers.
23. Official powers.
24. Organization of board.
25. Relation to local authorities.

E. Delegation of powers

26. Administrative regulations.
27. Administrative orders.
28. License.
29. Permit or dispensation.
30. Revocation of license.
31. Notice.
32. Hearing and evidence.
33. Powers for information.
34. Creation of districts.

35. Finance.
36. Contracts.
37. Condemnation by eminent domain.

F. Enforcement

38. Penalties.
39. Liability.
40. Nullity.
41. Condemnation and abatement.
42. Obstruction.
43. Enforcement proceedings.
44. Jurisdiction and procedure of courts.
45. Remedies and review.

REPORT OF THE CITY-COUNTY COMMITTEE[1] OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION

BY CLYDE LYNDON KING

University of Pennsylvania

The conclusions in this report are based upon certain local studies of the relation between city and county made especially for the Committee by: Prof. O. C. Hormell, on "Boston's County Problems;" Mr. H. S. Gilbertson, on "The New York County System;" Mr. Fred W. Catlett, on "The Relation of Seattle to the County of King;" Messrs. Winston Paul (secretary of the Citizens Federation of Hudson County, New Jersey) and H. S. Gilbertson, on "Counties of the First Class in New Jersey;" Prof. Frank G. Bates (associate professor, department of economics and social science, Indiana University) on "City-County Relations in Indianapolis;" Mr. Percy V. Long (city attorney, San Francisco) on "The City and County of San Francisco;" Hon. Lewis R. Works (judge, the superior court, Los Angeles) on "Los Angeles," and Dr. Clyde Lyndon King on "The City and County of Philadelphia and of Denver." The work is further based upon the studies made by Doctors Arthur Ludington and F. D. Bramhall, which appeared in the *Proceedings of the American Political Science Association*, February, 1912, and also upon the twenty-four monographs in the volume on *County Government*, published by the American Academy of Political and Social Science in May, 1913, which were secured and edited by the chairman of the committee. The committee has had in all its activities the suggestions and coöperation of Prof. John A. Fairlie.

The committee has endeavored to make a searching study of these monographs in order to find out whether or not certain principles might be evolved from them that would apply more or less accurately to the city-county situation in all parts of the United States. The city-county situation is a twilight zone in the sphere of American government to which public attention has not been adequately directed. With the thought of stimulating constructive activity for such governmental units, the following suggestions are made. They are made with the full knowledge that their efficacy will depend solely on their adaptation to local needs, and not on their wholesale adoption.

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[1] The members of the city-county committee are as follows: Dr. Arthur Crosby Ludington, of New York City; Mr. H. S. Gilbertson, executive secretary, National Short Ballot Organization; Dr. F. D. Bramhall, of the University of Chicago; Mr. Fred W. Catlett, attorney-at-law, Seattle, Washington; Dr. O. C. Hormell, department of history, Bowdoin College, and Dr. Clyde Lyndon King, of the department of political science, University of Pennsylvania. Dr. King is chairman of the committee.

The relation of towns and cities to counties in the United States falls into three general groups: (1) the rural county with no significant industrial or urban interests; (2) the county containing several towns or cities whose interests are more industrial than agricultural, and (3) densely populated areas whose interests are strictly urban.

I. THE RURAL COUNTY

The rural county, with distinctly rural interests, and containing no urban sections save those whose interests are intimately related to agriculture, it is not within the special province of this report to discuss.

The committee finds, however, in such counties, urgent need for a shorter ballot. The governmental interests of such counties would best be furthered by a unicameral body of about five commissioners elected at large in which all power and responsibility relating to county government are centralized. If the county includes urban populations in sufficient number so that the board would be dominated solely by either the rural or urban group, this principle would have to be modified in some such manner as is recommended in the class of counties next to be discussed. The organ of county government must be sufficiently important to attract public attention and public scrutiny.

The county's administrative officers now elected could then be appointed either by this body or by the state authorities. Those having to do with the county as an organ for the satisfaction of local needs could be appointed by the county commission, those acting as state agents could be appointed by the governor of the state. Court officials could be appointed by the courts. The committee is unanimous in its belief, however, that the appointment, by the judiciary, of other than court officials, such as is the practice in Philadelphia (where the court of common pleas appoints the board of revision of taxes, the board of inspectors of the Reed Street and the Holmesburg Prison, the commissioners of Fairmount Park, the board of education, nine members of the board of viewers of Philadelphia County and the board of directors of city trusts) is vicious in its results, and should be abolished. Appointments by the judiciary should be limited strictly to court officials in order that the judicial functions may be kept distinct.

A study of many of the county officials now usually elected will show that there is little justification for their election, if, indeed, for the existence of some of them. An illustration in point is the office of coroner. This office as it exists at the present time is not only useless, but in many cases it is a positive menace to the administration of criminal justice. The duties of the office are usually performed under loose statutory provisions not adapted to present-day conditions. The duties of coroner require considerable knowledge of both medical and legal matters, and no single individual can be expected to be properly qualified in both subjects. Wherever possible there should be substituted for the coroner a medical examiner who is an expert pathologist. The hearings on the causes of violent deaths could then be held before a police court judge or other competent magistrate; and the office of medical examiner could be attached to that of the district attorney in order that the latter may be able to make the best use of evidence in criminal cases. The number of county elective officers can readily be reduced through the elimination or appointment of other officers.

II. THE FEDERATED COUNTY

In many counties there are several distinct towns or cities with industrial interests more or less different from the agricultural interests, yet also containing agricultural districts whose interests must be taken into account. The problem here is to give representation to each of the factors.

A typical situation is that of Essex County, New Jersey, as shown in the monograph by Messrs. Paul and Gilbertson, on *Counties of the First Class in New Jersey*. Essex County contains sixteen municipalities classified under the state law as towns, villages, boroughs and cities. These municipalities vary from a population of 442 to 347,469. In addition there are four townships with populations varying from one to nine thousand. A similar situation exists in Los Angeles and Alameda Counties, California. Alameda County comprises an area of approximately 843 square miles, contains a population of 265,000 people and embraces several incorporated cities and towns varying in population from 808 to 156,674.

Your committee feels that this situation warrants the creation of a single county legislative body. In many cases this body could be created on the federal plan. It believes that the federal type would be better than election at large because public opinion and scrutiny have already been focused upon the mayors and elective officials of the city on the one hand, and upon the elective officials of the township or other governmental unit representing farmers' interests on the other hand.

A type of the federation recommended is that recently created for a Public Utility District in California. The board of directors entrusted with the management of this district is composed as follows: the mayor or president of the board of trustees or other governing body of each city and the chairman of the board of supervisors of the county if incorporated territory is included; a member of the city council or other person selected by the council from each city having at least 5000 registered voters; and an additional member of the council or other person for each additional 10,000 voters. In effect, this board of directors will include: the mayor and one other member from both Alameda and Richmond; the mayors of Albany, Emeryville, Haywards, Piedmont and San Leandro; the mayor and two others from Berkeley; the mayor and four others from Oakland, and the chairmen of the boards of supervisors in Alameda and Contra Costa Counties. This gives a board of nineteen men, so composed as to give at once both permanency of policy and popular control.

If anything this is too large a board. If the federal plan creates too large a board, some other method of selection will have to be devised, such as electing a rather small board of members by a limited number of relatively large districts, using the large municipalities and the district rural units as much as possible.

The functions of this central legislative body would vary with the needs of each locality. In the matter of taxation it would be the unit both for the assessment and collection of taxes. Your committee unreservedly favors the state centralization in the supervision of collection of taxes.[2] Such centralization does away with the evils inherent in decentralization of assessment, namely, inequalities in assessment between the communities at the expense of the more honest communities. Moreover, the multiplication of taxation agencies means unnecessary expense.

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[2] Such as has been developed in Alabama, Arizona, Arkansas, Colorado, Connecticut, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

A second function of this legislative body would be at least advisory control over the police of the various towns and districts. The extent of this control would depend upon the degree of continuity of urban populations and the character and homogeneity of police requirements. It is futile for certain municipalities to enforce their laws in certain particulars when another municipality at its border is allowed to run wide open. A third function should unquestionably be the control over interurban railways and city-country roads. Professor Bates, in his study of the situation in Indianapolis, points out the overlapping of responsibility between city, township and county authorities for the construction and repair of country-to-city roads. Though cities build improved roads to their limits, they soon find that the returns to the city through better traffic from outlying regions is definitely impaired for want of county or township action. Somewhat analogous is the matter of sewer construction in outlying districts beyond the city limits. Proprietors of proposed additions, and residents in suburban areas have found both legal and practical questions when they endeavor to get adequate connection with sewer systems. Such a central legislative body could be practically the agency for controlling a metropolitan sewer system. In Hudson County, New Jersey, where the community is closely built up, such a federated system could also be of service in fire prevention and could act as the authorities for a metropolitan fire district.

And finally this federal legislative body could act in an advisory function in the regulation of public utilities. Your committee is unreservedly in favor of centralization in the state of ultimate control over the regulation of municipal utilities. This seems to be necessitated by the great increase in absentee ownership and by the dependence of one community upon another for proper extension and supervision of utility services. Local bodies, however, could render distinct advisory service, and might, in the larger urban centers, have regulatory powers subject to appeal to and revision by the state board.

III. THE COUNTY CITY

The third situation is that where there are dense industrial areas with interests essentially urban.

A typical example of this situation is Philadelphia where the boundaries of the city and county are coterminus but where there is no unit in city-county administration. Thus the following departments, which spent $18,042,970.55 in 1912, and requested $20,006,460.15 in 1914, are under the control of the mayor: department of supplies, civil service commission, department of public safety, department of health and charities, department of public works, permanent committee on comprehensive plans, Pennsylvania Nautical School, art jury, board of recreation, department of wharves, docks and ferries, department of city transit. The following departments, though they spent $11,696,220.52 in 1912, and requested $16,623,155.64 in 1914, are financed through the council but are independent of the mayor: city controller, city treasurer, board of revision of taxes, receiver of taxes, department of law, city commissioners, clerk of quarter sessions, prothonotary, coroner, recorder of deeds, register of wills, district attorney, sheriff, Philadelphia County prison, commissioners of Fairmount Park, commissioners of sinking fund, board of education, board of viewers of Philadelphia County, board of mercantile appraisers, board of registration commissioners, Pennsylvania Museum and School of Industrial Art, Zoölogical Society of Philadelphia, board of directors of city trusts, Free Library of Philadelphia, Eastern State Penitentiary, and select and common councils. This diffusion of administrative responsibility leads not only to duplication but to inefficiency and waste in the non-city departments.

Thus the total expense, according to Bulletin No. 84 issued by the Philadelphia bureau of municipal research, for the distinctly city offices increased but 1.8 per cent for 1912 over 1911 while the total expense incurred for the county departments in 1912 increased 4.6 per cent over those of 1911. The total increase for all city and county departments was 3.2 per cent.

Such was the situation in Denver during the years from 1904 to 1911 when the boundaries of the city and county of Denver were coterminus but when the court by judicial decree prevented consolidation under a single legislative and administrative control. During this period the independent county officials in Denver and the institutions supervised by them were incompetently manned, uneconomically administered and in many cases wholly corrupt. Such is typical of the situation that tends to exist wherever there is such overlapping of city and county functions. The city officials are elected under the closest public scrutiny; the county officials under practically no public scrutiny. The result is that the city administration grows relatively more efficient and county administration shows no improvement or grows relatively more and more wasteful.

The administrative consolidation of the county of Suffolk and the city of Boston is also not as complete as might be desired. Thus there is a separate registry department for the city and for the county. The city registrar is appointed by the mayor under civil service regulations while the register of deeds for the county is elected by the people. The county department for the year 1911–1912 cost the city $56,000 while the city department cost but $38,000. There seems to be no fundamental reason, concludes Dr. Hormell in his special monograph on *Boston's County Problems,* why these separate departments could not be consolidated into a single department. The sheriff, likewise, is an elected county official, for Suffolk County, and might well be dispensed with. His functions as a court officer could be exercised by an appointee of the court; his duties in relation to keeping the peace could better be performed by the police department. Greater efficiency would be secured and a simpler and more logical organization of Boston and Suffolk County could be brought about by the complete elimination of all other county officials.

Hudson County, New Jersey, offers a similar need for consolidation. It presents a most remarkable physical unity, while the urban unity is so great that it is impossible to tell where one municipality ends and another begins. The interests of all Hudson County are primarily urban and industrial, yet there is needless duplication of government through thirteen different municipalities whose populations vary from 3163 to 267,779.

Mr. Catlett's study of the relation of the city of Seattle to the county of King shows a similar need for consolidation there. The total population of the county is 284,500—237,000 of whom are within the limits of the city of Seattle.

The way for consolidation has already been opened in this country by the examples of San Francisco and Denver. The government of Denver City and County is now administered exclusively through a commission of five men. The government of San Francisco was formerly administered by a mayor, recorder, board of aldermen, board of assistant aldermen, which two boards were styled "common council," treasurer, comptroller, street commissioners, collector of city taxes, city marshal, city attorney, and two assessors for each city ward. The county officers included a district attorney, county clerk, county attorney, county surveyor, sheriff, recorder, assessor, coroner, treasurer, public administrator, and county board of supervisors. The government is now vested in a single council and a mayor with appointive power. The result of consolidation in both Denver and San Francisco, as in other cities in the United States where this duplication does not exist, has been economies, efficiency, simplification and responsiveness of government.

Your committee believes that one of the fundamental standards now to be attained by such urban areas is the adoption of the English system whereby a city, on gaining a given population will have automatically, not only the powers inherent to it as a municipality of its class, but also all the powers bestowed upon the county government. In England a borough automatically becomes a county borough with the powers both of a municipality and a county when it reaches a population of 50,000. A similar system is practiced in Prussia, though ministerial decree not merely the acquisition of a given population, is necessary for consolidation.

Your committee recommends that a standard be adopted for each of our states whereby a city, upon attaining a given population, dependent upon the needs of each of the states, shall automatically become a county-city with powers both of a municipality and a county, with coterminous boundaries, a single legislative body, and a centralized executive.

As to the structure of government for such a county-city, a single body elected at large is recommended. This principle could be adapted to the largest municipalities by the election of a minority of the board, say four of the nine members, from the large divisions of the city. The large bicameral council is universally giving way to the small unicameral council in every part of the United States where the cities themselves have had anything to do with framing their own charters for efficiency. Even in Philadelphia, which has a council of 132 members—47 in the select council and 85 in the common council—there is a movement on foot for the creation of a small council with a single chamber. Experience there, as the experience elsewhere, has always been that the council is large when it comes to escaping responsibility for legislative or administrative acts, but is very small when it comes to determining what is actually to be done for partisan ends. Thus in Philadelphia legislation is actually accomplished by a small group of about 9 men instead of 132 men as seems to be the case. We believe that the form of government should conform to the practice.

This small legislative body, as indicated above, should have all legislative powers both for the city and county. But their power and authority should end there. The responsibility for administration should be vested solely in the administrators, preferably in a single elective or appointive official. In cities of larger size, certainly in cities of over 1,000,000 population, as in Philadelphia, your committee is unanimously of the belief that the mayor should be elective and all appointive power centered in him.

For cities of smaller size it would no doubt be better if the responsible administrative official were appointed rather than elected and be known by some such title as the county manager. Hudson and Essex Counties, New Jersey, have already an independently elected official known as the county supervisor. The law states that this official "shall be the chief executive officer of the county and may recommend the board of chosen freeholders to pass such measures as he may deem necessary or expedient for the welfare of the county." He is directed "to be vigilant and active in causing the laws and ordinances of the county to be executed and enforced," and is given supervisory powers over administration and veto powers over the resolutions and ordinances passed by the board of freeholders. This office can be made of the very highest importance and a power for efficient administration.

Among others, the specific duties of the county manager would be: (1) to act as purchasing agent; (2) to supervise the business administration of the county; (3) to prepare the county budgets; (4) to keep the county's books. He should be a thoroughly trained official equipped with the knowledge of modern administrative methods, and with the capacity of a thorough executive. His tenure should be at the pleasure of the board, and the board should not be restricted in its choice to residents of the city. He should have power to appoint all subordinates and heads of departments.

Your committee is of the opinion that the merit system should be applied to county as well as municipal administrative officials. In certain places, such as Los Angeles, both the city and the county have civil service commissions, each with its efficiency bureau. County civil service is in effect in certain counties of New Jersey under the state civil service commission which supervises municipal and county examinations for appointments. The want of the merit system as applied to county subordinates has meant, both in Philadelphia and in Boston, that officials dismissed from the city service for reasons of incompetency, inefficiency or dishonesty have often been reëmployed in the county service. In this extension of the merit system to the higher grade of governmental employees, your committee wishes to recommend, however, that the practice of non-assembled examinations be extended, that the widest possible discretion be left to the administrative officials and that there be no resident limitations upon applicants.

There are many urgent reasons why there should be no residence limitations upon engineers, bureau chiefs and all those in expert service. One of these is that local opposition to "aliens" is based at times on the knowledge that the local expert is amenable to social and economic pressure that will tend to make him "safe and sane," in other words often dishonest. And if faith in the expert is to develop, all taint of dishonesty or amenability to "pressure" must be eliminated. How many cases could be cited by this group of political scientists of virile and honest criticisms of local public utilities, say, that come from within the city! The number is few indeed. A second equally poignant reason for no residence limitation on experts for governmental service is that the honesty, efficiency and competent standards of experts will best be furthered by the creation of a national supply of such experts to the end that evidence of "taint" will reflect on the expert's standing among his associates. This is a factor of no small importance in developing a class of experts in whom the public can have a righteous faith.

There is need not only for uniformity of accounting in city-county areas but also for state supervision of accounting in order that expenses charged against one thing in one county may not be charged against a different thing in another county, thus baffling any comparative analysis of the cost of government. There is need for standardized reports of a character that would have meaning alike to citizen and official.

The county city should be its own unit for the assessment and collection of taxes. Your committee believes that taxation requires state supervision and inspection of county assessors and assessments. Public health protection is in need of intimate state regulation through the department of health, yet the city must have ample powers to handle all purely local questions.

In all three classes of counties discussed above, many duplications of offices and unnecessary expense could be eliminated if the central county legislative body controlled such matters as the inspection of milk. The several towns and cities in Essex County, New Jersey, draw their milk supply from scores of dairies. These dairies are in turn subjected to inspection by each municipality. A central agency could make more frequent and thorough inspections at a decidedly less cost.

The sheriff, in many states, can be appointed by the governor, though it will be difficult to overcome the force of tradition that these officials should be elected. Some states may be ready for appointment of prosecuting attorneys either by the governor or by the attorney-general. In those states where the judicial administration is a state affair, with state appointed judges, the city boundaries should be the limits of a judicial district. This should be so without exception where city and county are co-terminous. Such a district should have a centralized system of inferior courts under the head of a chief justice having authority to distribute the judicial business among the several judges within the municipality. In states where the administration of justice is in the hands of locally elected or appointed judges or justices there should be a municipal court after the plan of the Chicago municipal court. There is distinct need for consolidation of judicial authorities in all the larger urban areas. The supervision of penal and correctional institutions should rest more and more in the state and less and less in the local community whether it be county or city.

Whether this reconstruction of county and city government come through special legislation, through optional legislation giving to the city and county the privileges of a choice between statutes and the referendum, or through home rule, as in California, will depend largely upon the political attitudes and customs of the various sections of the country. That such readjustment is necessary for efficiency seems amply warranted by the facts.

COUNTIES OF THE FIRST CLASS IN NEW JERSEY

BY WINSTON PAUL

Secretary of the Citizens Federation of Hudson County

AND

H. S. GILBERTSON

Executive Secretary of the National Short Ballot Organization

The counties of Essex and Hudson, New Jersey, measured by population, are two of the largest political units of their kind in the country.

These counties are not only almost exclusively of an urban character; they have become practically continuous urban communities.

The physical unity of Essex County, however, is more real than the social. Underneath the common interests of each of the several localities is a strong local spirit, due largely to individuality of interest. Some of them are almost exclusively residential and suburban, tributary not to the large city of Newark, but to New York. The cities of Newark and Jersey City have all the varied characteristics of a metropolis. They have an independent reason for existence in their manufacturing interests, and what usually goes with such interests, a large foreign population.

There is, however, a marked contrast between the two counties in physical and social unity. With the exception of three small municipalities adjacent to Newark which should be attached to the latter city or at least joined to Essex County, the County of Hudson presents a most remarkable physical unity. The unity is so great that it is impossible to tell where one municipality ends and the other begins. The social unity of Hudson County is far greater than that of Essex. The marked social heterogeneity between Montclair and Newark, for example, does not exist in Hudson County. The larger municipalities in Hudson County are of an industrial character and are composed of individuals of a homogeneous manner of life.

For the foregoing reasons it seems likely that these counties will always play a rather less important rôle than the cities within their boundaries. The county's political importance is further minimized by the system of administrative centralization which is the rule in New Jersey, particularly as applied to the courts. For the judiciary in this state in fact as well as in form is more closely integrated than in most others. The court of common pleas is identified with the county because of its territorial jurisdiction, but the judges of this court are appointed by the governor. The same is true of the public prosecutor who takes the place of the district attorney in most other states, and who is usually elected by the people. A rather interesting commentary on the unity of the judiciary in New Jersey is the statutory definition of the prosecutor's powers and duties, wherein it is written that he shall

> prosecute the pleas of the state in such county in the absence of the attorney general, and further, do and perform such acts and things on behalf of the state in and about such prosecutions as the attorney general might or ought to do if personally present.

The constitution, however, does not permit this theory of judicial unity to be carried to its logical conclusion, for it requires that sheriffs, clerks of counties, coroners and surrogates, who by reason of their functions may be classed as court officers, shall be elected by the people of the county.

Administrative centralization is also accomplished in the field of public utilities. This division of public service is strictly under the control of the state public utilities commission, and neither the municipalities nor the county has any legal power of any consequence over them. It is possible even for the public service corporations to tear up the streets under state authority in defiance of the city. The cities, of course, have a certain amount of police power (in the narrow sense) and may regulate such minor matters as traffic on the street railways, but both the granting of franchises and the actual operation of utilities are state affairs.

GOVERNMENT OF COUNTIES OF THE FIRST CLASS

The regulation of Essex and Hudson County affairs is set forth in the law applicable to counties of the first class which provides for a board of nine chosen freeholders. The members of this body are elected at large in rotation so that the terms of three men expire each year. The salary of freeholders is $1500 per year.

THE COUNTY SUPERVISOR

The county supervisor, an official which only the two largest counties in New Jersey, Hudson and Essex Counties, have, is an independently elective official who is charged, as his title implies, with the general supervision of the affairs of the county. The law states,

> he shall be the chief executive officer of the county and may recommend the board of chosen freeholders to pass such measures as he may deem necessary or expedient for the welfare of the county.

Besides being charged with the duty of communicating with the board on matters of finance and the maintenance of institutions he is charged "to be vigilant and active in causing the laws and ordinances of the county to be executed and enforced." The county supervisor is empowered to exercise a constant supervision over the conduct of all subordinate officers and to examine all complaints made against them for violation or neglect of duty and if it is found that any officer is guilty of the charges brought against him, the supervisor may suspend or remove him. He furthermore has a veto power over every resolution or ordinance by the board of freeholders. It requires a two-thirds vote to override the supervisor's veto.

The office can be made of the very highest importance and power for efficient administration. Few incumbents have tried really to exert the full influence of the office; the power of veto, the independent position of the office and the ability of the supervisor to attract public attention to his office and his acts make this position one of large possibilities in the hands of a capable and aggressive executive. An official of this character has been extremely rare in the two counties of Hudson and Essex since this office was created in 1900.

County civil service is in effect in several counties in New Jersey where possibly more progress has been made than in most States in the country. Civil service in New Jersey is under a state civil service commission which supervises both municipal and county examinations and appointments.

TAXATION

In New Jersey the assessment and collection of taxes is a function of the municipalities. The tax rate in each municipality is fixed by a county board of taxation, a board appointed by the governor, which has power to hear appeals from the local assessments, and whose chief function is to act as a board of equalization in a given county. To this board the municipalities and the counties each certify prior to certain fixed dates in August, the amount which they will severally require to be raised by taxation, which amounts are given in the respective budgets. The county board then fixes the tax rate for each municipality which is based upon these budgets (proposed tax levies) allowances being made by the county board for such reductions as were made in the assessments of the previous year by any of the state boards of final resort.

The assessment of taxes is not altogether scientific or accurate and it is only the thorough work of many of the county boards which prevents a very great amount of inequality in the assessment of taxes. The weakness of the collecting system is that the collectors of taxes act simply as receivers of taxes, taking only such moneys as are handed them, the law apparently making no requirements that they should go out and seek to recover such taxes as are legally due the municipalities.

Taxation has long been a subject of discussion in the state of New Jersey, but it is only recently that the subject of a more efficient method in the collection of taxes has been discussed. Proposals to this end were before the last legislature. A special legislative committee to investigate tax assessments reported in favor of an assessment system with direct responsibility from top to bottom, to be secured by the following means:

1. Establish the office of state supervisor requiring supervision and inspection of county assessors and assessments.

2. Establish a county assessor in each county to have general supervision of local assessments.

Those taxing districts now too small to require the entire time of a competent man should be consolidated.

3. Cities should be assessed as a unit by one assessor or board. Notices of assessments should be sent all taxpayers and appeals should be heard before the rate is fixed.

4. Personal property and poll taxes should be abolished.

5. As many cities in New Jersey run for a part of the year on borrowed money, the fiscal year starting before taxes are payable, it was recommended that existing obligations for current expenditures should be funded and in the future taxes should be collected in advance of expenditure.

MAINTENANCE OF COUNTY INSTITUTIONS

The ordinary county institutions are an insane asylum, tuberculosis sanitarium, almshouse—usually more of a hospital than almshouse—and a penitentiary. The greater the centralization in the control of the management of these institutions the better. They should be located on the same general land plot in order that they may have a central heating plant, a common bakeshop, and effect other economies which result from an efficient and centralized management. In New Jersey these institutions have a superintendent who is generally a medical man and in addition they usually have a warden. This dual responsibility is not conducive to efficiency; either there is conflict of authority or one of these officials becomes an assistant to the other. A more ideal system would be to have one superintendent or medical expert in charge of each institution and to have a general manager for all the institutions, who should have charge of the purchase of supplies, the preparation of food and clothing, and in general be responsible for the business management of all the county institutions.

PUBLIC HEALTH

The function of public health protection in Essex County is entirely in the hands of the municipalities. In some ways this system is unfortunate. This was illustrated at a recent exhibit in Orange, N. J., where it was shown that a great many duplications of offices and unnecessary expense could be eliminated if there were in Essex County some central agency which would conduct the inspection of milk. The several towns and cities draw their milk supply from scores of dairies. These dairies are in turn subjected to inspection by each municipality. It is easy to see that a central agency could make more frequent and thorough inspections at a decidedly less cost.

FIRE PROTECTION

Fire protection is also a function of the separate municipalities. Newark as a manufacturing and commercial city, naturally has a more complex and important fire protection problem than any of the other cities and towns. Before many years the city will doubtless be obliged to adopt all of the new forms of apparatus which are essential in cities of high buildings, including the high pressure system and appropriate apparatus for reaching the floors of skyscrapers. So much has to be said in favor of a decentralized fire protection system. On the other hand, as pointed out before, Essex County is mostly composed of closely built communities, between which in most cases there is no open territory which could serve as a lane of protection against the spread of a great conflagration such as those which have overtaken Chicago, San Francisco, Baltimore and Chelsea. Inasmuch as fire protection has come to mean, in these later days, fire *prevention*, it would seem that in communities like Essex County, something might be said in favor of making fire protection a county function for the purpose of uniform regulation.

By reason of the compactness of Hudson County most of the county extends along the top of the hill with a wide boulevard running the length of the county; it would be very effective for the municipalities to combine in the maintenance of a joint system of fire protection. Motor-driven fire engines could by means of the boulevard go from one part of the county to another. If any large conflagration broke out it would be impossible to tell how far it might spread and it is very probable that a large conflagration would extend beyond the borders of the municipality in which it started.

ACCOUNTING

There is no uniformity of accounting in the counties of New Jersey and each county collector (or county treasurer) has his own method of charging accounts and keeping books. Expenses charged against one thing in one county are charged against a different account in another county, which makes it extremely difficult and sometimes baffles an analysis of the cost of government in the different counties. Because deficits in the "court's account" could be made up by a bond issue, it was the habit in some of the counties to charge all sorts of items against this amount. There has been not only an unscientific method of charging unrelated items to any account which happened to be healthy, but unexpended balances have frequently been transferred from one account to another, which of course defeats the budgetary theory of appropriations. There was at least one county in New Jersey where it was the habit for a number of years to transfer all unexpended balances toward the close of the year to the "incidental" account from which account all payments were then made for the last month or so of the fiscal year.

The accounting, budget and financial reporting system of the counties in New Jersey resembles an African jungle! The most effective remedy for this situation is by way of a state prescription requiring uniformity in budgets, accounting and reports and the appointment of state auditors to aid in the installation of such methods and afterward to check up on the accuracy of such reports as are required.

The Citizens Federation of Hudson County has advocated the above remedy and at its suggestion the Democratic and Republican parties have this year in their party platforms pledged the enactment of laws to provide for a uniform system of accounting.

RELATION OF LOCAL UNITS TO THE STATE

It is impossible to consider the relations of the county and the city without also considering the relations of the State to the foregoing units. Our idea on this subject is that the State, to begin with, is under a responsibility to provide and maintain an efficient system of education and also to either establish an effective state health department or to see to it that the municipalities maintain an efficient system of regulation and inspection. The responsibility of the State in these fields of human welfare is fundamental and this responsibility must be recognized as having a paramount place if we are to have efficiency in either of these two most important departments.

The system of educational administration in New Jersey consists of a state commissioner of education with several assistants, and a small appointive state board. The state superintendent uses the county superintendents as territorial agents, a large part of whose work is clerical. Centralization in educational administration is an accomplished fact in this State.

The state health department at the present time is considered to be quite ineffective and it is very probable that proposals for the improvement of the organization of the department will be made at the next legislature. There should be a state commissioner of health (similar to the state commissioner of education) who should be allowed certain assistants. There should be a small state board of health appointed by the governor to coöperate and advise with the state commissioner of health, such board to be empowered to pass ordinances. The state superintendent should be given authority to appoint local health officers in each municipality in the State under civil service examinations; all the officers in the service of the State to be experts and their tenure of office should be permanent.

As a corollary to our remarks on health administration, we submit that the State has a proper right to supervise and control the work of municipalities in so far as same relates to the erection and maintenance of an efficient water works, sewage disposal plants, etc. The power of the State to supervise carries with it the *responsibility* of the State to oversee and provide in advance for an increase in population by planning new sources of water and new systems of sewerage. In this case the State should have the power to deal directly with the city, or with a combination of cities and towns, or a county as would best enable it to fulfill its obligations in the premises.

As to the road problem, the need for central supervision becomes more and more apparent with the increase in the use of automobiles and the need for a consistent and well maintained system. In the accomplishment of this end the State may well make use of the counties as administrative divisions, if such a course seems desirable.

CONSTRUCTIVE SUGGESTIONS FOR LOCAL REORGANIZATION

As pointed out previously in this paper, Hudson County presents an excellent opportunity for increased efficiency through a fundamental reorganization. The distribution of its population is so compact that consolidation could easily be effected. This step would unquestionably result in a large saving by eliminating and preventing a duplication of public officers and employees, to say nothing of the actual economy in the purchase of supplies, etc.

Aside, however, from the question of consolidation, what can be done to strengthen the present organization of the counties of the first class? The constitution requires that the county clerks, registers, sheriffs, coroners and surrogates be elected by the people. The effect of this is not only to lengthen the ballot, but, what is more serious, it puts these several officers on an independent basis and destroys the responsibility of the board of chosen freeholders for the economic administration of county affairs. All of these officers are non-political, and there is no reason in political science or common sense why they should be elected. We suggest, therefore, the following disposition of these officers:

The board of chosen freeholders should appoint the county clerk and register, placing these officers on the same basis as the county counsel and county collector.

The sheriff should be appointed by one of the higher courts in the county, or by the governor. The major part of the sheriff's duties are connected with the carrying out of court orders. But, as the sheriff in certain matters is the direct agent of the state, there is a strong argument for his appointment by the governor, after the manner of the public prosecutor.

The office of surrogate is largely a judicial one, and it would seem wise that this officer be selected in the same manner as are other judges.

The office of coroner is a superfluity and an excrescence. It should be done away with and its powers and duties conferred upon the county physician or upon some officer who would be directly responsible to the county prosecutor, inasmuch as it has been shown quite conclusively in other States that there is a decided necessity for the public prosecutor to control the evidence in cases of violent death.

But the mere fact of making these now independently elected officers subordinate to the responsible county and state officials is not sufficient to give the county a proper working organization. As has been pointed out previously in this paper, the office of county supervisor is full of possibilities. These possibilities, however, have seldom been realized, partly because the supervisor is independently elected and only theoretically responsible to the board of chosen freeholders. We would, therefore, abolish the office of county supervisor and substitute for it that of county manager, the latter office to be filled by the board of chosen freeholders, the incumbent to receive a salary determined upon by them and hold office during their pleasure. He would be expected to give his entire time to his public duties, and the board would be expected to select for this position, not a politician, but an expert administrator. This suggestion is in line with an important recent development in American city government which is currently known as the city manager plan.

PRELIMINARY REPORT OF THE COMMITTEE ON PRACTICAL TRAINING FOR PUBLIC SERVICE

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I. PRELIMINARY

At the Boston meeting of the American Political Science Association there was voted the following resolution:

> That a committee of five be appointed (1) to examine and make a list of places where laboratory work for graduate students in political science can be done; (2) to recommend to the various college and university faculties that due graduate credit be given to such place; (3) to use its best endeavors to obtain scholarships for this laboratory work, and to secure an endowment for the building up of a trained body of public

servants; and (4) to make, if possible, a system of card records and efficiency standards for graduates doing practical work in political science.

A committee on conference was appointed by the American Economic Association.[1] These committees have worked together and the following report is a result of their joint efforts. The following is not so much a report as it is a program. In no case was an exhaustive investigation made. In some cases catalogue descriptions are quoted pending fuller personal subsequent investigation. But throughout there are indications of fruitful subjects of detailed inquiry. There is evident need throughout of some agency to bring the various phases of the whole movement into helpful interrelations, and guide it along its normal line of development.

A. Practical Training or Laboratory Methods

The committee was tentatively named the Committee on Laboratory Methods in Political Science. But because "laboratory methods" as ordinarily understood did not convey the meaning of the resolutions creating it, even though the phrase "laboratory work" is used in the resolution, the name of the committee was changed to the Committee on Practical Training for Public Service. There is a fundamental distinction between laboratory methods and practical training. A laboratory is primarily a place (within the university) devoted to experimental study. In its narrow sense at least, it assumes the special creation of certain conditions to observe certain results. Practical training requires the student to be a participant rather than an observer. It requires that the work be done under the stress of a practical demand rather than of a merely intellectual interest. It requires that the student shall learn by doing in contact with the normal actual conditions. Practical training requires that the student shall leave the university to go to the place where the thing needs to be done.

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[1] David Kinley, University of Illinois, Chairman, John R. Commons, University of Wisconsin, Henry Rogers Seager, Columbia University.

B. Steps Taken by the Committee

In the investigation of the whole problem of practical training, the committees jointly have taken the steps noted below:

1. The joint committee has sought the advice of the presidents of most of the universities of the country and has submitted to them, for criticism and suggestion, the statement of the work prepared jointly by the committees.

2. It has requested detailed information regarding fellowships and practical training work in the various universities. It has examined university catalogues and read the annual reports of presidents of universities so far as these were available.

3. The committee has noted the following opportunities for public service:

a. Bureaus of municipal research. There are at least seven that are organized and have been in existence for several years.
b. Legislative reference libraries. According to the latest tabulation there are twenty-nine with various titles.
c. Governmental bureaus and departments of investigation and research like the Wisconsin state board of public affairs, the commissioners of accounts in New York and the Boston finance commission. The Milwaukee bureau of municipal research properly belongs to this class.
d. Special legislative investigating committees in states at least, e.g., the Committee on Economy and Efficiency of the Illinois legislature.
e. The innumerable and valuable private organizations like the National Short Ballot Organization.
f. Governmental departments.

4. It has devised an inspection and supervision service for these agencies.

5. It has set in motion a searching investigation and inspection of bureaus of municipal research through the coöperation of the professors of political economy and political science, listed on page 348.

6. It has carried on extensive correspondence with professors and publicists all over the country.

7. It has examined with some care the educational literature on professional training.

C. Suggested Next Steps

The committee offers the following next steps in its program:

A. Submit the statement of facts regarding the bureaus of municipal research to the universities of the country, for their approval, and their acceptance of any, all, or none of these agencies as places where graduates may secure approved field training.

B. Survey by means of the inspection service other agencies for practical training, after completing the survey of bureaus of municipal research.

C. Urge upon universities the possibilities of the proposed system of supervised practical training, and the desirability of following the example of the University of Missouri in assigning at least one of their fellowships to the committee.

D. Keep on file complete information regarding men who have been practically trained under the committee, and of others who have done noteworthy pieces of work; e.g., managed a budget exhibit. This should include professors, and should be made available to any governmental agency or citizen organization.

E. Make a detailed study of the vocational demands of public service and of the other problems of practical training.

F. Seek funds (1) for the establishment of sabbatical fellowships for a year or half year at full salary for professors in political science or political economy; (2) for fellowships for able post-graduate students in the universities to supplement their theoretical training; and (3) to continue the present inspection service.

G. Have members of faculties in the various universities of the country agree to act as representatives of the committees in that university. This would help in the administration of the inspection service, the collection of facts, and keeping the committees informed as to progressive steps and new experiments in practical training.

D. Practical Training and the New Democracy

The social justification for practical training is found in our new attitude toward politics or government.

Probably the most significant phase of this movement within the political sphere of our life is the new interest and the new emphasis on administration. It is an axiom of the modern government that its object is the public welfare, the common good. No matter whether the political or the administrative means to that end be considered, its success is shown in the last analysis to depend on a trained public service. The possibility of making a public service a career is shown in the increasing sphere of the influence and power of the civil service commissions. The attitude of Mayor-elect Mitchel of New York in requesting applications for positions in the exempt class is a striking illustration of a new attitude on the part of elective officials. In the field of public education a career is possible. There is no reason why the whole of the public service should not have the possibility of a career for trained men. Where are the trained men?

II. THE UNIVERSITIES AND PRACTICAL TRAINING

A. Universities Recognize the Principle of Practical Training in Many Departments

There is abundant evidence on all sides that the universities have ceased to be intra-mural institutions. Perhaps of all our educational institutions the universities are more deeply affected, and affect more deeply the current of things than any other institutions. They have long since ceased to be local institutions, but are national in influence.

They are peculiarly responsive to constructive efforts for better training and more practical training of their student body. The reports of the Carnegie Foundation on medical education are among the most important educational documents in our history—and, fortunately among the most helpful. The last annual report (1912) of the Foundation contains abundant proof of the responsiveness of the universities to constructive criticism. The details are, unfortunately, not pertinent here.

The universities have long since recognized in most of the other departments the principle underlying practical training for public service. The scientific student has well equipped laboratories provided for him, and considerable laboratory work is required of all students of the natural sciences, even in elementary courses. The student of geology has his field excursions to make surveys. The student of agriculture has his demonstration farms and experiment stations. The student of astronomy has his observatory.

Professional education in the university has also long since recognized the need for practical training. The prospective doctor has his ambulance assignments and the opportunities offered by abundant clinical facilities. His experience as an interne is similar to the proposed experience for post graduate students in political science. The prospective teacher has various assignments to actual classrooms for considerable length of time. Engineering students have their summer camps and their assignment to business establishments.

Thus the college and university has long recognized, in several departments of learning, the need for personal contact with the actual problems of the various fields of experience. *The proposition is now to carry the principle of direct contact over into the field of political science.* The movement is in fact under way, but it is unorganized.

In the field of social science it is not possible to reproduce in a school laboratory the actual conditions, or to create certain assumed conditions. The student can find the situation only outside the college walls. Frederick W. Taylor, in an address at the opening of the Engineering Building of the University of Pennsylvania, said regarding the student who has a strong foretaste of the struggle ahead of him before he goes to college:

> Neither their earnestness of purpose, however, nor their immediate usefulness, comes from any technical knowledge which they have acquired while working outside of the university, but rather from having early brought home to them the nature of the great problem they must face after graduating. Nothing but contact with work and actual competition with men struggling for a living will teach them this. *It cannot be theorized over or lectured upon, or taught in the school-workshop or laboratory.*

Mr. Taylor suggests that all college students should

> be handed over by the university for a period of six months to some commercial, engineering, or manufacturing establishment; there to work as an employee at whatever job is given him, either manual or other work. He should have the same hours and be under the same discipline as all other employees, and should receive no favors. Moreover, he should be obliged to stay even a longer time than six months unless he has in the meantime given satisfaction to his employers.

The question is interesting, especially that it is raised by so significant a figure in our industrial life; but it is not pertinent to the immediate problems of the committee. It has great ultimate significance for the committee in its relation to post-graduate students. The committee gladly raises the question.

In its plans for its government house, New York University proposes a striking carrying over of the laboratory principles in the field of political science. Professor Jeremiah W. Jenks in an interview in the Sunday *Times* of October 26, 1913, says of the work (as yet unorganized):

> I expect that a number of Ph.D. students will be collecting good material this college year from their experiences in the laboratory. In order to enter the laboratory, for the practical work, students must

have had a ground work of theoretical training in economics, politics and sociology. They will then be permitted to supplement theory with practice in a very valuable manner. The student working at Government House will report to me from week to week, just as they would do if they were carrying work in a chemical laboratory. . . .

Besides giving to the students a scientific basis for political and social work, the laboratory courses will give them a much more immediate, practical touch with that work than would otherwise be possible, and give them a great deal better understanding of the human side of it.

Departments of political science and economics and related departments in universities all over the country are recognizing the need for so-called laboratory methods in the fields of political science. Some students are being sent to the only political science laboratories there are, the state houses or capitols, the city halls, the municipal buildings, the municipal hospitals, shops, schools, and what not. The extent of the actual utilization of these places by universities all over the country is noted elsewhere. Elsewhere, too, in 'this report, is an indication of the increasing part taken by university teachers in government in city, in state and in nation.

The committee on practical training is therefore organized to establish no new thing, but to systematize and provide administrative machinery by means of which the universities of the country may give their graduate students practical training in political science.

B. University Bureaus of Research and Reference

Another significant feature of this tendency in the universities to push out beyond the campus and become a factor in contemporaneous life is the establishment of bureaus of municipal research, municipal reference libraries and leagues of municipalities, either in the university or under university control or influence. The committee on practical training has not, as yet, been able to investigate these bureaus, but here notes such facts as are generally available in university catalogues and in current journals. The list does not pretend to completeness and the committee will be glad to have its attention called to similar agencies not in this list.

1. **University of Oregon,** bureau of research. The newly-formed State Municipal League of Oregon is to have its headquarters in Eugene, and the University of Oregon will act as a bureau of research for the benefit of all members of the organization. Prof. F. C. Young has been

authorized to appoint a commission of seven officials in Oregon to take steps for complete organization.

2. **University of Texas,** bureau of municipal research and reference. The University of Texas has established a bureau of municipal research and reference. It will be under the direction of Dr. Herman G. James, adjunct professor of political science in the University.

3. **University of Washington,** bureau of municipal and legislative research. The bureau of municipal and legislative research at the University of Washington is collecting information on subjects of municipal interest for the use of city officials throughout the State, and will supply such information on request free of charge.

The university bureau of municipal research is in the closest possible coöperation with the League of Washington Municipalities, the chief of the bureau being corresponding secretary of the League and associate editor of its official paper, *The Pacific Builder and Engineer*. By this arrangement the League of Washington Municipalities obtains without expense all the advantages of a permanent, non-partisan headquarters, in charge of trained workers, and with extensive collections of municipal information already existing on the shelves of the bureau and the various university libraries.

4. **University of California,** bureau of municipal reference. The university extension division of the University of California announces the organization of a bureau of municipal reference for the use of the citizens of the State, particularly the officials of the municipalities of California.

The aim of the bureau is to place at the disposal of the cities of the State every resource of the university which may be of aid in raising their standard of government and stimulating their civic progress. This bureau will secure correspondents in the principal American cities to further assist in the collection of franchises, ordinances, charters and other documents which would be of value to California municipalities.

The bureau of municipal reference, in addition to maintaining an extensive reference library, will also act as a channel of communication between the city officials of California and the experts in municipal administration, finance, public health, engineering and kindred subjects who are now serving on the University faculty. It will secure their counsel and advice on all questions that may be submitted to them by any city official. Advanced students may also be called upon to perform practical work on subjects requiring specialized research.

The coöperation of the League of California Municipalities, the California State Library and other interested organizations and institutions has been assured.

5. **University of Wisconsin,** municipal reference bureau. The university extension division of the University of Wisconsin maintains a municipal reference bureau which collects data and information on all subjects of municipal activity and municipal government for the purpose of rendering that material accessible to the cities and citizens of the State.

The municipal reference bureau is in charge of a specialist in municipal administration, and has the coöperation and assistance of the political science department of the University of Wisconsin, and the legislative reference department of the Wisconsin Free Library Commission. It is able, through the assistance of members of the university faculty and professors of the University Extension Division, to give to the municipalities of the State the advice and assistance of experts in practically every branch of municipal administration and the problems of cities. All aid and assistance is free, and the correspondence and coöperation of the municipalities of the State is heartily solicited.

6. **University of Cincinnati,** municipal reference bureau. The Council of the city of Cincinnati passed recently an ordinance giving the university quarters in the city hall and asking it to organize, appoint the staff, and direct the work of a municipal reference bureau. It will be the duty of this bureau to collect and compile information on all matters pertaining to municipal legislation, finance, sanitation, education, and public works, as may be required by Council or the various city departments in connection with their work. The university has accepted the task and appointed its professor of political science as director of the new bureau, which will be organized at once. It is hoped that through this bureau plan, another valuable line of coöperation between the University and the city will be developed and an institution established which will not only assist the city authorities in their investigations, but supply students and citizens generally with information about all municipal affairs.

7. **Harvard University,** bureau of research. In connection with the department of government there has been established a bureau of municipal research. It is under the direction of Prof. W. B. Munro. It has an especially well equipped library of the current pamphlet material relating to city government. According to the last published report of the university (1911–12) the bureau had 1316 books in its permanent collection, and 499 on deposit—a total of 1815.

8. **Harvard University,** graduate school of business administration, bureau of business research. Of all the agencies mentioned the most significant is, from the standpoint of practical training, the bureau of business research of the graduate school of business administration. It is described in detail later.

9. **University of Iowa,** bureau of municipal information and of public administration. Upon the recommendation of the head of the department of political science and under his supervision there have been organized within the extension division of the University two bureaus—the bureau of public administration and the bureau of municipal information. These bureaus will collect information, conduct researches, and supply data to public officials and private citizens. The investigations and researches will be supervised by the department of political science. Graduate students in the political and social sciences will be assigned to these bureaus for service. The service rendered by these

students will be checked up and credit will be allowed in accordance with the merits of the work done. Capable graduate students will be invited to offer their services to these bureaus.

C. Practical Work in Connection with Individual Courses[2]

In the description of courses in politics and economics there is a very evident desire to give students contact with actual government and actual conditions. Sometimes in catalogues there is a formal statement of the opportunities which the location of the university offers, though in the description of courses no reference is made to these opportunities. For example, the catalogue of the University of California says:

> Special facilities also exist at Berkeley for the study of economic problems at first hand. San Francisco is the banking center of the coast; and the banking system here is peculiar because of the actual circulation of gold coin, direct Oriental and European exchange and crop movements practically continuous throughout the year. San Francisco is also the terminus of three great railways. The distance of California from the Middle West has given great importance to questions of transportation, and rate questions are continuously subjects of dispute.

But there is hardly any reference to this in the brief description of the courses.

1. Studying Local Conditions. Preliminary to any practical work is the recognition that the things at hand are worth studying. As noted below, universities are increasingly studying local labor conditions and local municipal government. More specific recognition, however, in this particular is given to state problems. There are courses on "special study of the administration of California," Iowa problems, Nebraska problems, and so forth. Such courses are not necessarily conducted by laboratory methods, but there is increasing recognition that this is the way they should be conducted. Perhaps the most noteworthy recognition of the home State as a subject of study is found at the University if Iowa. The following courses are given:

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[2] The committee on practical training discusses this question superficially. This subject will, in all probability, be taken up in due time by the committee on instruction in government, Charles G. Haines, chairman, Whitman College. Definite coöperation is to be arranged by the committees at the Washington meeting.

1. (2) Iowa history and government, 4 hours. An elementary study of the history, people, resources, and institutions of Iowa. Lectures, text-book, and library readings. For freshmen. Professor Shambaugh.

17. Introduction to the history of Iowa, 2 hours. An introduction to the study of the history of Iowa, dealing with the period of early explorations and settlement, and tracing the history of sovereign and subordinate jurisdictions. Dr. Clark.

18. Iowa history and politics, 2 hours. Iowa history, government, and politics from 1838 to 1860. Dr. Clark.

19. (20). Research work in Iowa history, 2 to 4 hours. Undergraduate research work in Iowa history. For students who have had 17 and 19. Professor Shambaugh.

27. (28). Advanced research, 2 to 10 hours. Researches in political science and Iowa history for students who are prepared to do advanced work along these lines. Professor Shambaugh.[3]

2. **Lectures by Practical Administrators.** This desire for contact with actual government and actual conditions takes various forms. Its simplest form is to have men who are holding public office and doing things for the public welfare tell of their experiences. The University of California gives a course:

114. Problems of the state. Associate Professor Reed. A series of fourteen lectures by men actually engaged in their solution. 1 hour, first half-year. Tu. 4.

In a course (44, 45) at the University of Chicago on trade unionism, students "are brought in frequent contact with the men, organizations and activities which are being studied." In its university "forum," New York University has developed this idea a little further. Though it deals with subjects not directly of political or economic interest, but of the widest social interest, we may refer to this development. It proposes having the two methods of dealing with a problem, and the opposing sides of an issue presented, and then having a summary by the director of the forum with running discussion by the audience. This is illustrated by the following announcement:

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[3] Further evidences of this point of view are found in the *Applied History Researches of the State Historical Society of Iowa.*

In 1910 the State Historical Society of Iowa inaugurated the "Iowa Economic History Series," a series of publications containing the results of critical investigations on economic questions. Already five volumes have appeared in this series: *Labor Legislation in Iowa*, by E. H. Downey; *Taxation in Iowa*, (2 vols.) by John E. Brindley; *Work Accident Indemnity in Iowa*, by E. H. Downey; *Road Legislation in Iowa*, by John E. Brindley.

But of more importance in this connection is the "Iowa Applied History Series" of which one volume has already been published by the Society. The researches represented in this series have been referred to as legislative research. The subjects handled are practical problems in contemporary legislation and administration.

The researchers of the State Historical Society of Iowa are allowed credit for their work by the graduate college of the State University of Iowa and by graduate colleges of other universities.

SYNDICALISM OR TRADE UNIONISM: RELATION TO WORKERS

"The working class and the employment class have nothing in common. Labor is entitled to all it produces. It is the historic mission of the working class to do away with capitalism." In these declarations the Industrial Workers of the World set forth the basis and object of that organization. The American Federation of Labor declares the objects and aims of the organized trade unions to be: "To render employment and means of subsistence less precarious by assuring to the workers an equitable share of the fruits of their labor." In addition to the methods employed by trade unions—strikes and arbitration—the Industrial Workers of the World employ sabotage and the general industrial strike. What shall be the attitude of thinkers and of workers toward these great organizations? Which offers the better means of promoting the welfare of wage earners—syndicalism or trade unionism? Mr. Arturo M. Giovannitti, editor of *Il Proletario*, and a militant leader of workers in the strikes at Lawrence and Paterson, and Mr. Samuel Gompers, president of the American Federation of Labor will present different answers to these questions.

December 5, 1913	Mr. Arturo M. Giovannitti
December 12, 1913	Mr. Samuel Gompers
December 19, 1913, Summary and Discussion	Professor Jenks

3. **Inspection Tours.** Another form that this desire for contact with actual conditions takes is to take students on inspection tours. This is evidently followed in a course in the University of Minnesota.

12b. Economic Conditions in American Cities, Mr. Lescohier. Three credits (3 hours per week); second semester. Open to juniors, seniors, and graduate students who have completed Course 12a. The causes of economic dependence is American cities, the standard of living, and the constructive agencies for economic betterment. Lectures, assigned readings, and visits of inspection in the Twin Cities.

4. **Investigation of Conditions.** The course on labor problems preliminary to the course on "Economic Conditions in American Cities" is a little higher form of the desire to give students actual contact

with conditions. It requires "investigation of local conditions." A course in New York University is described as follows:

111. Economic Readjustment. A study of several problems, social as well as economic, growing out of the necessity for continual readjustment to changing economic conditions. Special study will be made of the forces determining the standard of living, the efficiency of labor, eugenics, the control of monopoly and the survival of competition. The seminar method of individual research will be followed, New York City being regarded as an economic laboratory. 2 hours. Tuesday, 4–6. Professor Powell.

Another way of securing the contact with actual government and actual conditions is to have a student begin his study of a subject in course and have him supplement it later. This is the method of Professor Barrows' course at the University of California.

206. The Government of Mexico, Professor Barrows. Investigation of federal, state and municipal government, and of social and political conditions in the Mexican Republic. A knowledge of Spanish is prerequisite. Students who present doctor's theses in this field should expect to complete this study in Mexico. Hours and credit to be arranged.

For that particular field that requirement is desirable, but it is only prospective doctors of philosophy who would avail themselves of the opportunity. A more practicable method of doing this with reference to local conditions is the requirement that a study of these conditions be made during the summer vacation, as required at the University of Chicago, College of Commerce and Administration.

A further step in connection with individual courses is to give it over in whole or in part to an investigation of actual conditions. In the catalogue of the University of California there is announced a course in municipal administration.

208. Municipal Administration, Associate Professor Reed. Investigation of actual problems of municipal administration. Hours and credit to be arranged.

In some cases this work is done in coöperation with outside agencies doing work in the field. Such a course is given at the University of Minnesota.

32. Seminar in Labor Problems. Six credits (3 hours per week); both semesters. Open to seniors and graduate students who have com-

pleted courses 12a or 13 and 12b. No credit is given unless both semesters are completed.

Original investigation and research, conducted in coöperation with the various agencies interested in promoting investigation of labor problems, afford training for practical work in the field of the labor problem.

In the University of Wisconsin specific arrangements are made as in course 142b.

142b. Research in Public Utilities. In coöperation with the Wisconsin railroad commission. Provision is made for the personal study of special "utility" and transportation problems. Each student shall prepare an essay which may be journalistic in character or may meet the requirements of a senior thesis. For seniors and graduates. Throughout the year; hours to be arranged; two credits. Mr. Hess. Mr. Gruhl.

5. Actually doing the Thing. The final step is from investigating the thing to actually doing it. The only field where this is done at the present time, so far as the committee could discover, is that of legislative drafting. Here actual measures are drawn. Course 33 at the University of Nebraska is such a course.

33. Practical Legislation: Nebraska Problems—Introductory study of Nebraska's historical development, social, political, constitutional. Present problems in Nebraska law-making and administration. Subject-matter and methods of legislation. Drafting and criticism of legislative bills and information briefs in coöperation with Nebraska Legislative Reference Department. Practice work at state house during legislative session, January to April of odd numbered years. 2 hours attendance. 2 hours credit. First semester. Given in 1914–15. Credited in the College of Law.

D. Work in Absentia in the Universities

Traveling Fellowships. Universities have long since recognized, through the instrumentality of traveling fellowships, the advisability or rather the desirability of sending men to places where they can study definite problems at close range.

The importance of traveling fellowships is evidently recognized by recent givers to universities. Columbia has just received a fund of $200,000 for traveling fellowships. Harvard has been given much more. Harvard is a striking example of the recognition of traveling fellowships. The scope of its fellowship system will be briefly described. There is a special fund called "The Frederick Sheldon Fund for Traveling Fellowships," which is described below. The Edwin William Hooper, the Charles Eliot Norton, the Rogers, the Parker and the John Thornton Kirkland fellowships (described below) are always assigned as traveling appointments. A number of the other fellowships may be so assigned.

1. The Frederick Sheldon Fund for Traveling Fellowships. The University received in 1909 the sum of $346,458.70 from the residuary bequest of Mrs. Amey Richmond Sheldon, and in 1910 the further sum of $8,750 from the same bequest, to establish, in memory of Mrs. Sheldon's husband, a member of the Class of 1842, the Frederick Sheldon Fund, "the income thereof to be applied in the discretion of and under rules to be prescribed by the President and Fellows . . . . to the further education of students of promise and standing in the University by providing them with facilities for further education by travel after graduation or by establishing traveling scholarships." The income of this fund is at present about fifteen thousand dollars.

By a vote of the President and Fellows, a committee of seven persons has been appointed to administer the Frederick Sheldon Fund for traveling scholarships. The income is not to be assigned in scholarships of fixed amounts, but "on recommendation to the Committee from the various Departments and Schools to be assigned as the Committee shall deem most expedient for purposes of investigation or study either in this country—outside Harvard University—or abroad."

2. The Rogers Fellowships. These fellowships rest on a foundation of $20,000, given to the University in 1869 by Henry Bromfield Rogers of Boston, of the Class of 1822, "for the encouragement and attainment of a higher, broader, and more thorough scholarship than is required or expected of undergraduates, in all sound literature and learning, except science strictly so called."

These fellowships are open only to graduates of Harvard College, and may permit the incumbents to reside abroad for the purpose of study.

Two fellowships are now established on this foundation, each having an annual income of $750.

3. The Parker Fellowships. Three fellowships of the annual value of $750 each are supported by the income of a bequest of $50,000, made to the University by John Parker, Jr. of Boston, and received in 1873, for "the instruction, education, and maintenance of one or more individuals, as they may successively arise, of eminent natural talents or genius for some one or more of the sciences taught in said College, and who shall have given satisfactory evidence of a rare talent or special adaptation of mind to one or more of said sciences."

4. The Charles Eliot Norton Fellowship in Greek Studies. In 1902, James Loeb, of the Class of 1888, gave securities valued at $14,100 for the permanent establishment of this fellowship, which he had maintained during the year 1901–02, "in grateful recognition of the long and great

friendship which Professor Norton has shown him since his boyhood, and in order to record in a fitting manner the eminent services which Professor Norton has rendered the cause of Archæology, and his beneficent prominence in the Archœological Institute of America and the American School of Classical Studies at Athens." In 1908 Mr. Loeb gave additional securities valued at $5000. The annual income is now $800.

5. The John Thornton Kirkland Fellowship. In 1873 George Bancroft, of the Class of 1817, completed the endowment, about $11,000, of a fellowship in memory of John Thornton Kirkland, of the Class of 1789, President of Harvard University from 1810 to 1828.

The Elka Naumberg fellowship in music, the Robert Treat Paine fellowship of social science for the study of the ethical problems of society, and the efforts of legislation, governmental administration and private philanthropy to ameliorate the lot of the masses of mankind, the Francis Parkman fellowship, the Francis Walker fellowship in ethics and metaphysics (preferably), Henry Lee memorial fellowship in political economy, the Ozias Goodwin fellowship for the study of constitutional or international law, the Henry Bromfield Rogers fellowship in ethics in its relations to jurisprudence or to sociology, the Bayard Cutting fellowship and the Woodbury Lowery fellowship in history—all may be made in any case as traveling fellowships.

Dean Haskins in his annual report urges the extension of the principle to professors for research. Upon exactly the same basis the committees on practical training urge that professors be given opportunity to come into daily intimate contact with governmental administration. Dean Haskins' plea follows:

> The productive work of professors, both in residence and on leave, would be greatly forwarded by the establishment of a fund for the assistance of research on the part of the faculty. The Frederick Sheldon fund, together with the various endowed fellowships, makes satisfactory provision for our advanced students, as far as their investigations take them away from Cambridge; and a similar fund, or series of funds, could be of even more value in the case of the more experienced investigators who are permanently connected with the university. In many instances professors have been compelled to postpone or abandon important researches for lack of such opportunities for work at a distance as many of our students already possess. The Woodbury Lowery fellowship, founded by the Duchess of Arcos, and held for the past two years by Professor Channing for the study of the Spanish sources of American history, is an admirable example of what can be done by a special endowment of this sort, and so also, in a different way, is the

Walter Channing Cabot fellowship, now held by Professor Royce. It is also important to remember that leisure, or at least relief from benumbing and time-consuming routine, is even more important than special collections or apparatus, and that American universities have generally been more generous in providing the material facilities for advanced work than in giving their professors the time to avail themselves of these facilities.

Perhaps a more radical recognition of the principle of work *in absentia*—the principle underlying practical training for public service—is informally recognized in many universities. The question came definitely before the graduate faculty of the University of Wisconsin back in 1912. Individual cases had come before the executive committee as early as January 1910. Through the courtesy of Dean Comstock of the graduate school we are permitted to quote the record:

Meeting of graduate faculty March 25, 1912—4.30 p.m. Thirty-seven present, the Director presiding.

The amount of time credit that would be allowed for work done in social settlements, government bureaus, geological surveys, agricultural experiment stations, research work in colleges, etc., toward advanced degrees, particularly the doctor's degree was up for discussion.

This question was discussed by President Van Hise, Dean Birge, and Professor Kremers. It seemed to be the opinion of the faculty that credit should be allowed for such work when done under the most favorable circumstances and with good results. No definite recommendation was passed. The executive committee was considered as empowered to pass on individual cases on their merits.

The executive committee had had the question raised as far back as January 13, 1910. Some instances from the official minutes of the executive committee are quoted below, through the courtesy of Dean Comstock:

Meeting on January 13, 1910.

Kirk, Charles T. Asks permission to come up for the doctor's degree in June 1910. He will at that time have had two years of graduate work in the University of Wisconsin and one year in the University of Oklahoma. In view of his record of field work as a member of the United States Geological Survey and of the Oklahoma Geological Survey, it was upon motion ordered that his residence requirements be satisfied in June 1910.

Meeting on April 12, 1913.

Keitt, G. W. Candidate for the Ph.D. degree—was granted permission to do field work for the balance of this year and to receive full credit for the same upon presentation of satisfactory evidence of accomplishment.

Meeting on May 2, 1913.

Pulling, H. E., was allowed to undertake work at the Desert Botanical Laboratory at Tucson, Arizona, as part of his candidacy, the credit to be allowed for this work to be determined later.

Byars, L. P. Received permission to pursue research work during the coming summer with the United States Department of Agriculture.

Meeting on May, 23, 1913.

McMillan, R. G. Wishes to pursue work during the summer *in absentia* and under the direction of Mr. Keitt for graduate credit. Permission granted, but determination of the amount of credit to be given reserved for a later time.

E. Serving Universities and Government

The election of Woodrow Wilson as President, the appointment of Prof. Paul Reinsch of Wisconsin as minister to China, of Prof. John Basset Moore of Columbia as counsel to the department of state of the United States, of Prof. L. S. Rowe as member of the joint land commission for the Panama Canal Zone, of professors all over the country on state commissions, the selection of Prof. Frank Goodnow of Columbia as legal adviser to the government of the Chinese Republic, of Prof. Henry C. Adams as expert adviser to the minister of communication of China in the establishment of an accounting system for the Chinese railways—all these indicated that the study of the interrelations of university and public would be a fruitful subject of inquiry. We were confirmed in our first impression by the number of field laboratories, surveys and similar governmental agencies established at universities, and administered by university professors. For example, in connection with the University of North Dakota, there is established the state public health laboratories.

The Public Health Laboratory was established at the University of North Dakota by an act of the tenth legislative assembly. The laboratory is conducted in connection with the School of Medicine of the university, under the direction of the professor of bacteriology and pathology.

The purpose of the laboratory "is to make bacteriological examinations of bodily secretions and excretions, waters and foods; to make preparations and examinations of pathological tissues submitted by the state superintendent of public health, by any county superintendent of public health, or by any regularly licensed physician of North Dakota." These examinations are made free of charge for physicians practicing medicine in the State of North Dakota.

It is recognized that the efficiency of this work depends very largely upon the promptness with which reports from the laboratory are received by the attending physician. The university has, therefore, established branch laboratories at Minot and at Bismark, thus bringing these laboratories close to the people of the State in order that they may get the best possible service from them. These branch laboratories are entirely under the control of the university, and under the direction of the professor of bacteriology and pathology. The cities in which they are located, however, pay about one-half the necessary running expenses, in return for which the bacteriologist in charge of the branch laboratory serves the city in the capacity of dairy and milk inspector, and makes frequent bacteriological analyses of the city's water supply.

The committee thought it would begin with an investigation of the personal interrelations of the universities and public service. Information was sought by questionnaires and by personal information, and a tentative list was included in the first draft of this report. But information began to pile up, until it was clearly impossible to include such lists in the final draft of the report. The committee found itself in a position exactly similar to that in which President Butler found himself. In his annual report as president of Columbia University, he discusses the public service of a university in a paragraph well worth quoting:

> Still another measure of a university's usefulness to the modern state is to be found in the service which its members render to the public through their association with governmental or voluntary activities of various kinds. It is by such association that the university's scholars bring their training, their knowledge, and their experience to bear upon these practical problems which are of present interest to the public. Among all the universities of the world, the American universities are probably unique in respect to the amount and variety of the public service rendered by their members. Of the American universities Columbia is second to none in the number, scope and importance of undertakings of a public or semi-public character in which its teachers and investigators are engaged. It is but to paraphrase a familiar saying of Plato to point to the fact that only when the rulers and guardians of the state are trained and reasonable men, and when trained and reasonable men are made rulers and guardians of the State, will there be any prospect of mending present ills and of multiplying present benefits.
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> With a view to its publication in the present annual report, an attempt has been made to prepare a detailed list of the public and semi-public undertakings in which members of Columbia University are now engaged. The result was astonishing, and it would be quite impos-

sible to print, within the limits of a single annual report, the data that has been accumulated. Arrangements will be made for the publication of this material elsewhere, and when published it will certainly be a revelation, not alone to the public, but to the university itself.

Obviously, if the committee is to include the whole country, a separate supplementary report will be necessary. Perhaps it will be necessary to change the scope and detail of our inquiry, but that is for later decision. Enough has been quoted in this section, however, to show at the present time an extensive and helpful interrelation of the university and the public service.

F. Special Features

1. Bureau of Business Research. Harvard's Graduate School of Business Administration. The bureau of business research is, from the standpoint of practical training, a most significant forward step.

Of the various research bureaus established in connection with universities, the bureau of business research is singled out for special treatment because of its recognition of the importance of field work. The following account is taken largely from the account of the bureau by its director (Sheldon O. Martin) in the December number of the *American Economic Review*.

The bureau of business research of the graduate school of business administration of Harvard University was established at the initiative of A. W. Shaw of Chicago to gather, classify and describe facts about business.

The bureau of business research is not a laboratory although in its work it has a laboratory point of view. It seeks to get data in quantity from the records of many actual businesses. It seeks to reduce those data to a common basis of comparison, to classify them and to group them so as to bring out, if existent, conclusions of more than individual application and then to search for underlying principles.

In short, it aims to be one of the agencies for furnishing an organized body of knowledge about business for the Harvard graduate school of business administration, and indeed for other schools of business and for business in general.

The methods of work especially interested the committee. Its first investigation was of the shoe industry. Why this was selected is not interesting here.

In the summer of 1911, field agents visited shoe retailers in Ohio and Wisconsin, as typical American areas, and soon learned that practically no two retailers kept their accounts in the same way. Consequently the school of business administration in conference with the trade prepared a uniform accounting system for shoe retailers. It has been received kindly by various trade associations both national and local, by trade papers, and by the shoe retailers individually. In the summer and fall of 1912 more agents of the bureau were out in the east, on the Pacific coast, and in the central west, explaining and introducing the system, and securing figures direct from the books of shoe dealers. In the summer of 1913, more extensive field work than ever was carried on. Field agents visited shoe retailers in the States of Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Michigan, Illinois, Wisconsin, Iowa, Missouri, and California. In September, the number of retail shoe stores adopting the bureau's uniform accounting system or coöperating to the degree of furnishing specific figures from their own businesses was over 600.

Mr. Martin very significantly remarks in conclusion:

> In conducting the work of the bureau, the field agent is absolutely essential. Although an extensive mail propaganda has been carried on, statistics prepared after two years' and one month's work showed that over four-fifths of the adopters and data had been secured by agents, as opposed to mail; and the quality of their information is so far superior that the mail information is used for corroborative purposes only. So far, these agents have been chosen from the school's staff and from second-year students. These are graduate students with training in economics, accounting, and business organization. The plan affords an opportunity to students of the school to gain experience during the summer months. As the students for this work are carefully selected, because of the quality of their own work, and other considerations, it has already become a mark of distinction, and a corresponding stimulus to be chosen as a field agent of the bureau. Even if it becomes necessary to establish a permanent nucleus of more mature field agents, there will always be an opportunity for supplementary work by these selected student agents. Such appointments might be somewhat fancifully called business interne-ships.

2. **Public Service Division, College of Commerce and Administration, University of Chicago.** The college of commerce and administration of the University of Chicago definitely arranged its courses with reference to specific occupations. The work of the college is grouped into three divisions: (1) Trade and industry division to meet the needs of persons intending to take up business pursuits or to

enter the consular service. Preparation for commercial teaching is included in this division; (2) the charitable and philanthropic division to meet the needs of persons intending to take up settlement work, social research, the work of charitable, child, welfare and similar agencies, and (3) the public service division.

With reference to all three fields the Catalogue says,

> The academic spirit (using this expression in the objectionable sense) is guarded against by introducing a considerable amount of contact with actual conditions, and at least one vacation period is to be spent in actual service.

The work of the public service division is best described in the words of the Catalogue:

> The courses in this division are arranged with reference to the needs of those who wish to train themselves for positions in the governmental agencies which have to do with the investigation, regulation, or control of the various economic and social activities of the day. For convenience in arranging the curriculum, social work in industry, although not necessarily of a public character, is included under this division. The following are some of the specific vocations prepared for by the curricula in the Public Service Division: factory inspectors; staff members in Bureaus of Labor, in tax commissions, in public utility commissions, in census bureaus; investigators for special inquiries under federal, state, municipal, or private authority; welfare workers and employment experts in industrial establishments; statisticians; workers in municipal efficiency bureaus, etc.
>
> For most of the positions in this field, at least one year of graduate work is essential.

3. Training Public Health Officers. Of the various fields of political science, practical training is perhaps most adequately provided for in the educational field at the present time. This is certainly true with reference to teachers. And at the present time there is practically a national recognition of, and a national attempt to provide, adequate training for the administrators and supervisors of public education.

Sanitary engineering. Public health is being separated, too, as a distinct field and serious attempts are being made to provide experts in the field of public health administration. The first recognition came in the organization of the field of sanitary engineering. The Catalogue of Union College says:

> The executive development of sanitary biology during recent years and the establishment on a firm, scientific basis of the germ-theory

of disease have laid a secure foundation for the important specialty of sanitary engineering. Already the practical application of the principles in many lines of public utility, as well as in medicine and surgery, has resulted in a very marked decrease in the annual death rate. The most fruitful line of application of this recent and useful knowledge lies in the intelligent design, construction and operation of municipal public works and of systems of water supply, sewerage, and drainage, heating and ventilation of private residences, schools, hotels, hospitals, and other public institutions and buildings.

School for Health officers, Harvard University and Massachusetts Institute of Technology. But there has developed a need for a wider preparation than the work in sanitary engineering has ordinarily required. This need has been answered in such an institution as the school for health officers conducted by Harvard University and the Massachusetts Institute of Technology where the "courses of study cover a wide range, including medical, biological, hygienic and engineering sciences together with practical health administration."

The school aims to prepare young men to occupy administrative and executive positions, such as health officers, or members of boards of health, or secretaries, agents or inspectors of health organizations. The ordinary methods of academic study will be pursued, supplemented by practical training. Though in the description of courses there is very little mention of field study, there is recognition of the opportunities. The Catalogue says:

> The opportunities for the practical study of the arts of public sanitation offered to students of the school for health officers are exceptional. The city of Boston is an important port of entry for foreign and domestic shipping and for immigration, with thirty or more municipalities in its immediate vicinity, while the State of Massachusetts is a community which has long been recognized as standing in the forefront of American commonwealths in all aspects of the practice of public health. To the advantage of location are furthermore added all the resources of Harvard University and the Massachusetts Institute of Technology.

The courses in this school are grouped under nine headings which follow:

I. Preventive medicine
II. Personal hygiene
III. Public health administration
IV. Sanitary biology and sanitary chemistry
V. Special pathology
VI. Communicable diseases

VII. Sanitary engineering
VIII. Demography
IX. Medical and other sciences

The Degree of Dr.P.H., University of Wisconsin. Not so significant a step but noteworthy is the establishment of the degree of Doctor of Public Health (Dr.P.H.) at the University of Wisconsin. The general requirements for the degree are similar to those for the Ph.D. Candidacy for the degree is open to holders of the degree of M.D. from recognized medical schools. Candidates for the degree must spend at least two years, subsequent to their graduation from medical school, in the study of sciences relating to hygiene and public health.

4. Training for the Consular and Diplomatic Service. Following upon the reorganization of the consular service by an act approved April 5, 1906, President Roosevelt by executive orders of June 27, 1906, extended to the consular service civil service principles as embodied in section 1753 of the revised statutes of the United States, and the civil service act of January 16, 1883. These orders were slightly amended by later executive orders. By executive order of November 26, 1909, President Taft extended the application of civil service principles to the selection of many of the officers of the diplomatic service.

In response to these orders of the Presidents, there has been provided in many institutions training for the consular, and to a less degree, for the diplomatic service. To take a few instances, the University of Illinois practically prescribes a four year undergraduate course for the consular service.

It is a rule at the University of Chicago that "those expecting to enter the consular service will be required to take at least one year of graduate work before the college will certify them to the President of the United States." An efficiency test in two modern languages is required. As is general in the school of commerce and administration at the University of Chicago, there are prerequisite courses, basic courses, and group courses. There is no general prescribed course. What each student takes is determined by his previous preparation and his goal. Owing to the fortunate provision of definite sequence of courses at the university there is little opportunity for free election.

The Yale-Columbia Courses in Preparation for Foreign Service. The most elaborate effort, however, to give training for the foreign service is the Yale-Columbia courses in preparation for the foreign service. It is designed to "prepare students for work in foreign countries either in the service of the United States government, in business enterprises, or as missionaries or scientific investigators." The course of study is intended primarily for graduate students, but properly qualified undergraduates will be admitted. Two years undergraduate work at Yale or Columbia or equivalent training is required of entering students. The completion of the course for service in the consular or diplomatic service requires normally three years, and for other fields of foreign service two years. Students finishing the course are given appropriate certificates signed by the Presidents of Yale and Columbia Universities. At the present time there is provided work in the divisions of language, geography, ethnography, history, religion, economics, and law. The course is intended especially for service in China, Japan, the Levant, and Central and South America.

In connection with the work in either of the institutions named or in others there seems to be a provision for practical training for this work. It seems practicable to the committee that a student preparing for the consular service could make reports for some American community similar to the reports that consuls are making for foreign communities. In state universities this would be an excellent opportunity to make a study of the State. The studies of the home State in various state universities, Nebraska and Iowa, for example might be conducted in this way.

The Legislative Reference and Public Service Library Course, Wisconsin Free Library Commission. The requirements of the committee on practical training that its research work shall be under the stress of a practical demand rather than of the future possible contingency is well illustrated in the research work required of students in the legislative reference and public service library course conducted by the Wisconsin free library commission. It is described in the Wiscon Library Bulletin for October 1913, as follows:

> As was anticipated, several departments of the state government have made application to the commission, asking that students be delegated to do special investigational work for them. The Wisconsin industrial commission has asked (1) for a study of the minimum wage in reference to housing standards and also from the particular viewpoint of the regulation of woman and child labor; and (2) for an investigation of the regulation of humidity in factories and workshops and its relation to the efficiency of the worker.

The state board of public affairs has asked (1) for a careful study of certain specific coöperative industries actually operating in Wisconsin; (2) for a study of coöperative credit, both in relation to short time loans and more permanent land mortgages; (3) for an investigation of the whole subject of a central board of control for all state educational institutions.

The secretary of the governors' conference has asked for an analytical compilation of the existing statutes regulating trusts and monopolies bringing up to date earlier compilations and organizing later material.

The state board of public affairs has asked for a similar compilation of statutes relative to mortgage taxation.

It is to be noted in this connection that these pieces of work must be done under conditions which are practical rather than scholastic, since the results are for actual use by the state departments and must conform to certain administrative standards, must be accomplished within a given time, and must be such as to meet the approval of the board asking that the work be done.

The legislative reference library has on file also a request for an analysis of regulations and methods applied in the detention of accused prisoners, with particular reference to their protection against loss.

Research work will also be done during the year on the following subjects: The pay of state legislators, municipal home rule, bibliography of material in accessible libraries relative to the white slave question (for the use of the special committee created by the last legislature for investigation of the subject), the investigation of certain phases of mothers' pensions and the care of dependent children at home (in connection with a special investigation by the State Board of Control), the efficiency of state departments, a study of state printing in regard to the elements of time, cost and quality; investigation of the actual interest rates on different kinds of loans; comparative data as to boards of efficiency and economy in other States.

It is evident that there will be no lack of practical problems on which the students of this special course may spend their time and gain expert knowledge both as to method and subject. All of the work is carefully supervised through weekly reports as to the time spent and the subject matter covered.

The things we are especially interested in are (1) the nature of the subjects, and (2) the conditions under which they are assigned.

5. Schools of Philanthropy Affiliated with Universities. There is one of the social sciences in which field training is recognized as an essential part, viz., the department of social economy. Frequently this is managed largely by an outside institution. The New York School of Philanthropy is affiliated with Columbia University and its director is the professor of social economy at the University. Its courses, with certain restrictions, are open to graduate students of

Columbia University and may be credited as a minor subject for candidates for higher degrees. The St. Louis School of Social Economy is affiliated with Washington University. Credits earned in the School of Economy will be accepted by Washington University toward a baccalaureate or an advanced degree according to the character of the course. The acceptance by any other institution of credits earned in the School of Economy is a matter for decision in each case.

The Chicago School of Civics and Philanthropy is not affiliated with any university but has an advisory council of professors from eight of the state universities of the middle west and the President of the University of Minnesota. Field work is fundamental in this school. Its description of its field work is selected for quotation:

> Training for social work cannot be given merely by lectures or the study of books or even by observation; one can learn how to do only by doing under expert supervision. This practice work is as important a part of the curriculum as the lecture courses and as high a standard must be maintained for regular and intelligent work.
>
> It is becoming constantly more evident that social work should no more be undertaken without preliminary training in the field than medical practice without clinical experience. This practice work is as important a part of the curriculum as the lecture courses, and as high a standard for regular and intelligent work must be maintained.
>
> Students are required to give fifteen hours a week to field work throughout the regular school year. Assignments are made at the beginning of each term and weekly reports of the work of each student are sent to the registrar of the school by the superintendent of the office to which the student is assigned. The aim is to make this practical work a genuine social apprenticeship, and all superintendents under whom students work are in reality members of the teaching staff of the school. For the purpose of training no form of social work is so fundamental as the family work of the United Charities, in part because the method of technique of treatment have been so thoroughly worked out, and in part because it provides so many points of contact with a large variety of coöperating organizations that students are given as early as possible in the school year an actual knowledge of the entire social field. All students who are candidates for the certificate of the school are required for the first three months to spend three hours a day, five days of the week, in one of the district offices of the United Charities. At the end of that time students are given a choice of work; those who prefer go into one of the child-caring agencies, the Legal Aid Society, the Vocational Supervision Department of the Board of Education, the Immigrants' Protective League, the probation department of the juvenile court, the social service department of one of the large city hospitals, the Infant Welfare Society, or some other specialized social or civic agency, as apprentices.

III. THE PROBLEMS OF PRACTICAL TRAINING

The movement for practical training for public service is a phase of the general movement for vocational education. The problems to be faced are those which confront the promoters of vocational education. The universities have met the problems as they relate to professional education in medicine, teaching and in other lines. They are definitely preparing to do so for public service. The establishment of courses for training men for the consular and diplomatic service is evidence of this, as is the training of men to be municipal and state health officers. The problems to be faced are at least five in number: to wit,

1. For what kinds of positions shall universities train men for public service and what kind of ability is demanded?
2. What college or university students are best fitted for these various fields of public service, and how can we get them to enter it?
3. What educational prerequisite should be required before specific training should be undertaken?
4. How in the training of men can we give them the requisite practical contact to supplement their theoretical training?
5. How can this practical training be so supervised that it will be educative, and secure to the individual the skill which is intended?

There are, then, five problems: (1) the problem of vocational demands; (2) the problem of vocational guidance; (3) the problem of educational foundations; (4) the problem of the relation of theory and practice; (5) the problem of adequate supervision.

A. The Problem of Vocational Demands

Fundamental to any system of professional education is a study of the nature of the service to be rendered by the professions. What are the votaries of the profession to do? Those who have had charge of the industrial education movement in its inception, plunged *in medias res*, and attempted to build up an educational system without reference to the social and vocational demands which the product of that system is to meet. More recently, this has been corrected by the preparation of plans for educational and occupational surveys preparatory to the organization of vocational education.

The committee on practical training, profiting by the experience of the promoters of industrial education, recognize clearly that its first and its fundamental problem is a study of the vocational demands of public service. To make such a study of the public service is not within the means of the committee. Fortunately the committee can avail itself of investigations already made. Before going into the details of this subject a few introductory comments are necessary.

Public service as here interpreted is not civil service. Civil service as ordinarily defined deals, to a large extent, with the inferior positions in the public service. Fortunately, it is acquiring a wider sphere. Its influence is gradually extending to all offices, including administrative officers immediately below the elected officials. The Chicago Civil Service Commission is probably leading the way to better things.

What kind of service does the modern city need? Probably the best way to get an answer to this question is to make a careful analysis of the various kinds of service rendered by a modern city as shown in a segregated functionalized budget. Another way to get it is to wait for the results of the various studies of standardization of salaries now being made in various cities throughout the country. The study already made by the Chicago civil service commission and the classification resulting therefrom will serve the immediate purpose of the committee.

The Chicago civil service commission has classified the public service of Chicago. To illustrate the nature of this work we shall quote brief descriptions of each class, and of the highest or the two highest grades in each class except in the police, fire and operating engineering service. We quote, too, in full the classification in Class I. The following descriptions are taken from the complete classification in the *Eighteenth Annual Report, Civil Service Commission, City of Chicago—Year 1912*, pp. 41–58.

Classification of the Civil Service of Chicago

Class A. Medical service. Positions the duties of which require training and ability in the medical profession or some branch thereof.

Grade V. Positions the duties of which are administrative, requiring special qualifications and recognized expert knowledge, and involving responsibility for the work of a principal branch of a department. *Director of laboratory, bureau chief of vital statistics, bureau chief hospitals.[4] Salary, $2040 and above.

Grade VI. Positions the duties of which are executive and administrative, involving responsibility for the work of the entire department, under the direction of the head of such department. *Assistant commissioner of health. Salary, $4020 and above.

Class B. Engineering service. Position the duties of which require training and ability in civil, mechanical, electrical or chemical engineering, architecture or related technical work.

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[4] Typical positions in the various grades are indicated by an asterisk.

Grade IV. Positions the duties of which are administrative, requiring special qualifications and recognized expert knowledge, and involving responsibility for the work of a minor department, under the head thereof, or entire responsibility for a division or minor bureau. *Deputy commissioner of buildings, engineer of surveys, superintendent of construction. Salary, $3000 and above.

Grade V. Positions the duties of which are executive and administrative, involving entire responsibility for an important department or bureau, either independently or directly under the head or heads of such department or bureau. *Superintendent of streets, assistant chief subway engineer, architect (board of education), city engineer. Salary, $4020 and above.

Class C. Clerical service. Positions of persons rendering clerical service or services in connection with general office work or management which does not require knowledge of any of the specialties included in other classes.

Grade VII. Positions the duties of which are administrative, requiring special qualifications and involving responsibility for the clerical work of an entire department, under the direction of the head thereof, or for the work of a division or minor bureau of such department. *Chief auditor, assistant business manager, chief water assessor, Salary, $3000 and above.

Grade VIII. Positions the duties of which are executive and administrative, involving responsibility for an entire department, either independently or directly under the head or heads of such department, or for an entire bureau. *Assistant city treasurer, deputy city collector, superintendent of special assessments, secretary (board of education). Salary $4020 and above.

Class D. Police service. Positions in the uniformed or detective forces of the department of police.

Class E. Operating engineering service. Positions the duties of which require training and ability in the operation or maintenance of equipment for the production of heat, light or power, or in work relating thereto.

Class F. Fire service. Positions in the uniformed service of the fire department.

Class G. Library service. Positions connected with the administration of public libraries, and requiring training and ability in library methods.

Grade V. Positions the duties of which are administrative, requiring special qualifications and recognized expert knowledge, and involving responsibility for the work of an entire bureau or division. *City statistician, division chief, school statistician. Salary from $1500 to $2400.

Grade VI. Positions the duties of which are executive and administrative, involving responsibility for the work of an entire department, under the head or heads of such department, and requiring the highest order of expert knowledge in technical library methods. *Librarian, assistant librarian. Salary $3000 and above.

Class H. Inspection service. Position the duties of which relate to inspection (whether of work, materials or conditions) which do not require knowledge of any of the specialties included in other classes.

Grade IV. Positions of principal assistant to the head of a department or principal branch thereof, the duties of which are supervisory, involving accountability for the entire department or branch, under the direction of the head of such department or branch. *Assistant bureau chief of food inspection, chief gas tester. Salary, from $1740 to $2100.

Grade V. Positions the duties of which are administrative, involving responsibility for the work of an entire bureau or division, and requiring the highest order of expert knowledge. *Bureau chief of food inspection, bureau chief of sanitary inspection, chief electrical inspector. Salary, $2400 and above.

Class I. Supervising service. Positions the duties of which are chiefly supervisory, involving accountability for the maintenance of public property, for the work of public employes, or for the custody of public charges, but not requiring knowledge in any of the specialties included in other classes.

Grade I. Positions the duties of which include the care of public property or public charges, involving a fixed responsibility, but not necessarily the exercise of independent judgment. *Assistant playground director, assistant superintendent (municipal lodging house), life saver. Salary from $720 to $1080.

Grade II. Positions the duties of which are supervisory, involving accountability for the work of persons in Grade I positions, or for the care or custody of public property or public charges, and requiring the exercise of independent judgment. *Parole investigator, playground director, gas street lighting supervisor. Salary from $720 to $1800.

Grade III. Positions the duties of which involve accountability for public employes in a specialized division of work or in a given territorial district, or for the care and custody of public buildings. *Superintendent of parks, city forester, superintendent of garbage disposal. Salary from $1800 to $2460.

Grade IV. Positions the duties of which are administrative, requiring special qualifications and involving responsibility for the work of an important bureau or division under the head thereof, or entire responsibility for a minor bureau or division. *Manager of properties, assistant superintendent of sewers, examiner of efficiency. Salary $2520 and above.

Grade V. Positions the duties of which are executive and administrative, involving responsibility for an entire department, either independently or directly under the head or heads of such department, or for an important bureau. *Examiner in charge of efficiency division, superintendent of compulsory education. Salary, $3600 and above.

Class K. Skilled labor service. Positions requiring knowledge of a trade, craft or useful art, or requiring special manual or mechanical skill, or involving the supervision of skilled or unskilled laborers, and not included in other classes.

Class L. Labor service. Positions of persons rendering labor service, specialized or general, where a choice by competition is impracticable. Grades or ranks shall not be provided or recognized in this service.

The range of opportunity for public service is indicated in the foregoing paragraphs. It indicates, too, the range of opportunity for practical training in municipal government for post-graduate students in political science. If the committee on practical training were the administrative board of a professional school. for public service, it would limit itself to certain phases of the work above outlined, provide for definite academic work and for its correlation with practical work. The problem before the committee at the present time is, however, different. It is to provide the opportunity for personal experience for students who have had the theoretic training in politics and economics. It is to acquaint students with the administration of actual government rather than the organization of formal government. Of those going into other lines of endeavor it will make good citizens. To those who are to be public officials, it offers the opportunity to be efficient. To those who return to teach government, it gives the vivifying touch.

Similar classification and statement of the opportunity for public service should be made for state and nation. For the national public service the first step has already been made in the pages of the two volumes submitted with President Taft's message of January 17, 1912 on economy and efficiency, containing a "summary outline of the organization of the government of the United States as it existed July 1, 1911."

B. The Problem of Vocational Guidance

If the first problem of practical training for public service is a knowledge of the various demands of public service, the second problem is finding the men who are suited for the work and who will profit by the course of training. To the student this is the problem of choosing a vocation, to the institution this is the problem of vocational guidance. Knowing the kinds of ability and the personal qualifications which the various forms of public service demand is naturally precedent and fundamental to any system of vocational guidance.

This is admirably brought out in a personal letter from F. H. Hankins, of the department of economics and sociology of Clark University:

> It seems to me that in connection with a study of "the extent of the opportunities and facilities for practical training," there should go an inquiry into the requirements for filling satisfactorily the different varieties of governmental positions. It will be recognized at once that government service calls for persons gifted in many different ways. One means therefore of raising the tone of governmental service in this country and giving to it the efficiency which goes with expertness will be to secure the right men for the right positions. I should think, therefore, a study somewhat after the manner of studies in vocational psychology would be an important part of your program. Indeed one of the necessary preliminaries in providing increased facilities for training would be a more accurate knowledge of the kind of ability and the kind of expert knowledge which different public offices require.

It is the plan of the committee as soon as the material is available for any phase of public service that it be made known to the departments of the universities who could help, to the directors of the college vocation bureaus and to professors who advise students.

The knowledge of the demands of the public service in ability and in personality must, necessarily, be the basis of its award of its fellowship system when established. Further comment is reserved until later.

C. The Problem of Educational Foundations

Our next problem, to follow our analogy with industrial education, may be called the problem of pre-vocational training. From the standpoint of practical training for public service it resolves itself into a question of educational foundations. Of the persons to be practically trained in public service, we ought to know in a general way what their cultural foundation is. Assuming complete mastery of the fundamental instruments of culture, and of social intelligence, we ought to know specifically about their knowledge of sciences and arts that would serve as a basis for practical training for public service. We ought to know how much and how deeply they know the field of the social sciences, of its interrelations and of its bearings on government.

Obviously, the committee cannot actually test at present at least, the actual acquirement in knowledge, in skill, in appreciation of the students in our university. However, it can study, or use the results of the study of other committees of what the universities are offering in the fields concerned. The committee awaits with eager interest the results of the studies of this question by other committees of this and other associations.

It wishes to call attention to a vigorous challenge in a report of a committee of three appointed at the 1909 Conference on the Teaching of Economics. The report says:

> Unmistakably there exists today a widespread dissatisfaction with the way in which the subject is presented, a dissatisfaction which is even stronger among the teachers than among the taught. In part this is due to the fact that we do not yet know what to teach, do not yet know what the facts and principles really are. For this no remedy save that of productive scholarship can suffice. In part, however, the current dissatisfaction is due to other causes. In a time when old social values are being discredited, or at least seriously questioned, it is inevitable that the drift should be away (often too far away) from what seems dogmatic and doctrinaire and toward that which promises to make students problem-solvers with independent habits of thought. More than ever before, instructors are experimenting with inductive methods of various kinds from the use of newspapers as collateral readings to the preparation of case readings and collections of problems. More and more it is felt that students must above all go out with a method rather than with formulae which may fit but ill the rapidly changing phenomena they must face. In this movement there are dangers. Properly guided, however, to the goal of making students problem-solvers and not mere problem-staters this movement has much of hope both for the science and for the teaching of the science.

It continues:

> In this new educational movement another step must be taken—that of educating college authorities to the real nature of work in the social sciences. We are asked to interpret the life around us, asked to interpret it out of books which are antiquated before their ink is dry. We must demand greater opportunity to study our phenomena at first hand. No laboratory can be "bought" for the social scientist, but we can change our attitude toward his needs. Why should it be unheard of for social scientists to have leave of absence on full pay to do laboratory work? Why should it be unreasonable for him to have as ample allowance for his laboratory as does the physical scientist? Research professorships are good as far as they go, but every social scientist should have some opportunity to study society at first hand and he should not

be expected to do this out of his meager salary. The precise method which should be used is not in question here. That would probably vary according to circumstances, but laboratory work of some kind is the right of every scientist, and if the colleges are really seeking to serve society it is their duty to face the question of ways and means. Scientific diagnosis of present social ills is not less pressing than scientific classification of paleolithic fossils.

Prof. Leon C. Marshall, who was a member of the foregoing committee, says in another connection in criticism of the course of study in economics:

> The teaching of economics can show but small achievements in the development of sequential work, if sequences be understood to mean clear, orderly, coherent progression in arrangement of studies.
>
> In our colleges the practice is almost without variation. First comes an elementary course in "principles," commonly offered in the Sophomore year, and then, by a blunderbuss arrangement the shot is scattered all over the economic universe. Any "advanced" course may be taken in any order; the sequence of courses has but two steps, a first and a last. This situation is aggravated by the fact that the courses in economics do not serve as beginning, middle, or end of any sequence of work in the general field of social science. Usually the nearest approach to sequential arrangement is a half-hearted scheme of recommended prerequisition to economics courses, these recommended prerequisites being commonly courses in history or geography. These courses, obviously good in themselves, are seldom taught with any particular reference to their being utilized in the work in economics.
>
> The situation is shockingly little better in our universities. What has been said of the colleges can also be said of university undergraduate work. The organization of the graduate work is equally haphazard.

Chicago is resolutely and intelligently attacking the problem. The result of Chicago's experience will be watched with keen interest by the committee. It will be glad to be one of the agencies to pass along the results of the experiments at Chicago.

Harvard is dealing heroically with its problem, and the committee on practical training commends to the universities of the country its example. The departments of economics had invited the division of education to make an investigation of its educational efficiency. The division of education has apparently the widest scope for its inquiry. It will probably cover all the subjects mentioned at the beginning of this division, and much more. It is hoped that Harvard will give the benefit of its experience to the university world in due season—the productive as well as its unproductive inquiries.

The school of engineering offers at the present time a remarkable case of self-scrutiny. It has been studying for several years the questions of the relation of theory and practice. It has definitely revised its pedagogical procedure. Let Dean Schneider tell the story.

No pedagogical changes of major account were made during the first two years of the course. The old four-year course was taken and it was computed that under the coöperative system six years would be required to complete the work. It soon became evident, however, that the long summer vacation was not needed for coöperative students, since the alternation of physical and mental work prevented mental fatigue. It was decided, therefore, in 1910, to operate the Engineering College eleven months per year and reduce the length of the course to five years. Two years of operation under this new plan has shown satisfactory results.

After the first two years a revision of the various curricula was undertaken. The so-called practical technical courses, that is, those courses which are merely descriptions of technical things and of technical processes, were eliminated first. It was found that the coöperative student obtained the information which these courses sought to convey, in his shop work. The usual amount of science was retained and liberal art courses such as history were added. A further revision undertaken in 1912 has added advanced work in physics and mathematics in the final year of the course. This was made possible by an analysis of the curricula which disclosed the fact that certain courses overlapped, hence, certain subject matter was unnecessarily repeated. All of this extra work has been made possible by the elimination of practical and duplicated material from the curricula, and also by the established fact that the coöperative student can carry 20 per cent more work during his school week than the regular student. In order to further increase the scholastic efficiency, a rule was adopted last spring by which a student may be conditioned and "failed" in a subject which he has passed on the records, but of which he shows a poor working knowledge in some later course. This rule has been rigorously applied since its adoption and there is a marked change in the attitude of students toward their work. It will be evident that the "passing" of the subject means very little if the student has failed to get a thorough grasp of the subject matter. The term examination has been eliminated and instead weekly quizzes adopted, the questions of which may be upon any previous part of the subject or upon any subject prerequisite to the course being taught.

As a result of these pedagogical changes, practically all the weak students are eliminated in the Freshman year, and the losses in the subsequent years are because of non-academic conditions over which the students and the college have no control.

D. The Problem of Theory and Practice

It is a part of the best current educational theory that even for intellectual comprehension and appreciation, conception should run along with experience, and theory should be supplemented or rather complemented by practice. If this is advisable for intellectual apprehension and appreciation, it is indispensable in vocational preparation.

The problem immediately before the committee, is therefore, to discover facilities for giving graduate students in political science and economics, opportunities for training by doing under adequate supervision things that need to be done or should be done by government anywhere in the country. How this work is to be carried on is discussed in detail in the next section.

The result of this arrangement is that the theory of the political science department would be tested by the actual problems of government; governmental problems would be illuminated by the insight of the research and the investigation of the university. Thus theory and practice would be reinforcing each other at every point.

The practical work may be given by a part-time arrangement daily. This is the method of the working fellows of the University of Wisconsin. This work is described in the University Catalogue, 1911–12, page 572, as follows:

> A tentative agreement has been made between the university and certain departments of the state government whereby a limited number of graduate students may be appointed to positions known as working fellowships and bearing an annual salary of $600. Appointment to these positions is made substantially in the same manner as to university fellowships and the incumbent is expected to devote one-half of his time to graduate study within the university and one-half to the service of the state, viz.: the tax commission, the railroad commission, and the department of insurance. It is expected that the service rendered to these departments will be, in part at least, of the nature of investigation furnishing a valuable supplement to academic work in the university department of political economy.

Or it may be given by alternating theory and practice, for short periods at a time, as is done at the University of Cincinnati. The August 1913 number of the University of Cincinnati *Record* contains a study of "The Condition and History of the University in 1912." It contains a brief history by Dean Schneider of the experience of the University with alternation of shop work and school work, which is here quoted:

Prior to starting the course various periods of alternation of school and shop work were discussed. In a paper written in 1902, the Dean proposed various schemes of alternation from a daily alternation to a semi-annual alternation, but came finally to the weekly alternation as the best unit for beginning the experiment. The weekly plan proved satisfactory. But when work was begun with the railroad three years ago, a two weeks' alternation was decided upon for the railroad students because of the distances they had to travel. At the same time the alternation by two weeks in certain industrial concerns for purposes of comparison was tried. Different sets of students were tried on the one week and on the two weeks basis, and their opinions on the relative merits of the two were obtained. It developed that the alternation by two weeks permitted a student to obtain better types of work in the shops; the students preferred two weeks of continuous school work to one week of school work; there was no more difficulty in getting into the swing of shop work or of university work after two weeks' absence from either than after one week's absence. There was a certain awkwardness to the teacher in having some of the students on a one week basis and some on the two weeks' basis, but there was no increase in the cost of instruction. Since it was obvious that the two weeks' system was just as easy of operation and maintained the necessary close contact of the student with both school and shop, and since the plan offered a number of positive advantages, it was decided on October 12th, 1912, to make two weeks the standard alternation period. It might be argued that alternation by months might be better still, but the concensus of opinion of students, employers, and faculty, so far, is that the two weeks' system gives the natural and most efficient period of alternation. This conclusion has been reached by consideration of the fatigue element in shop work and in study, of the production element both in university and shops, and of the necessities of shop organization as they effect the character of work given to a student, and also of the time element necessary for completing certain laboratory experiments especially in the latter years of the course.

Or, finally, it may be given after a close study of theory accompanied, as far as possible, by contact with the conditions, and then followed for a prolonged period, say a year, of actual work or administration or investigation in intimate daily contact with the work.

Of these three methods the third has commended itself to the committee as the most practical method of securing the practical training desired because

1. The agencies which could give this work desire continuous full-time work.
2. Students will very often have to go to places other than the city or town in which the university is located.
3. It is capable of effective administration on a national scale.

4. The requirements of university life make it more feasible. This is especially true of candidates for a doctor's degree. It is exceptional in an American university for a bachelor of arts to secure his doctoral degree in less than three years of residence. Under the proposed plan it would be the best possible arrangement to have students take their practical training during their second year of post graduate work.

E. The Problem of Adequate Supervision

The real test of the work of the committees comes in connection with the problem of adequate supervision of the students who are being practically trained. This is the universal advice received. After consultation with many persons over the country, the committees worked out the following system consisting of three parts: (1) a system of inspection to discover adequate facilities for practical training for public service; (2) the continuance of the inspection service as a supervisory body, and (3) a system of card records to serve as a further instrument of supervision. And, of course, there is always the work accomplished as a conclusive test.

The committee was required, in accordance with the resolution creating it, "to examine and make a list of places where laboratory work for graduate students in political science can be done." Some system of examination and inspection had to be devised, and the following as suggested above was adopted:

1. Collect by means of questionnaires and other correspondence as much material as possible.
2. Check up this information by actual inspection and secure additional information through a member of the committee on practical training or its secretary.
3. Independent inspection by a professor of political science for the American Political Science Association committee.
4. Independent inspection by a professor of economics for the American Economic Association committee. The information collected in "1" is given to the professors mentioned in "3" and "4" before their inspection.
5. Original statement together with three reports considered by committee on practical training and final report prepared containing "bill of particulars regarding (name of institution) as to its opportunities for training men for public service."

This "bill of particulars" will be submitted to the universities of the country, and the acceptance by the university will be merely a general approval of the agency. Whether an individual student will receive credit or not for his work toward graduate degrees will depend upon the character and quality of the work he does. To guarantee this, a similar system of inspection of the work of the agency, which resulted in its approval, will be continuously operative. Moreover, the student will have the supervision of the head of the approved agency, and will have to meet the practical demands of its work. The practical tests in room 217 of the State Capitol will probably be more searching than the class-room tests in room 217 of the university.

One further means of supervision of a student's work is by means of current reports of time spent, work done, and impressions of supervisory officers of the student's work. A suggested series of reports given below. This consist of

1. Registration Form.

Form No. 1.

REGISTRATION FORM

Name..Present salary..................
Address..
Date and place of birth..
Married........; No. of children........; Height........feet; weight..........
Education (give length of time, years, degrees, diplomas, etc.)..................
....
Scholarships or fellowships, or other honors.........................
....
Present position (in detail)...
Previous experience (kinds of service, salary, etc.).................
References as to (a) character; (b) ability and knowledge of work.............
....

Back of Form No. 1

Any physical obstacles, however slight, to health or endurance which might, under strain, become aggravated, such as defects of hearing, eye trouble, etc.
....
Field of public service in which field training is desired.........................
What is your choice of place to be assigned? Why?.............................
Any published or typewritten reports of work done.............................
Any other pertinent facts or statements (e.g., subject of a doctor's dissertation)
....
Dated.............................Received................................
Action...

NOTE: This application must be sent to the Executive Secretary of the Committee, P. O. Box 380, Madison, Wisconsin.

2. An assignment form. This contains the directions as to work performed. It is written and specific, so that should later questions arise they would be means of determining exactly what was called for.

Form No. 2.

ASSIGNMENT NO. —

To..

Assignment (with suggestions)..

To work in conjunction with..

Under the supervision of, and all reports made to..........................

Date of Assignment........Date of completion........Number of hours........

....
Chief, Legislative Reference Library.

3. Weekly time sheet. This consists, on the obverse side, of the total amount of time spent daily, distributed according to the various kinds of work done. The reverse side contains the details as to time and place, and the like.

Form No. 2A.

COMMITTEE ON PRACTICAL TRAINING LEGISLATIVE REFERENCE LIBRARY

Weekly Time Report of....................for week ending....................

ASSIGNMENT	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTAL HOURS
Total..................								

Dated..............................Signed..................................

Back of Form No. 2*A*.

DAY	TIME	PLACE	DETAILS

4. **A weekly report of progress.** This calls for amount of work done, and amount remaining incomplete. This affords a current check on each assignment and suggests to the student the advisability of taking stock currently.

Form No. C2.

WEEKLY REPORT ON ASSIGNMENT NO. —

Subject..
Name...
Week ending..
What steps have been taken?..
What remains to be done?...
Suggestions?...
Probable date of completion..

5. **Record of conferences and interviews** in which student takes part.

Form No. 2.

CONFERENCE

Place................................Time. ....
With..................................... ....
How brought about..
Subject..
Details..

6. **A summary of assignments.** This amounts to a "review" of the student's work and is introduced largely for its educational effect on the student.

Form No. 3.

SUMMARY OF WORK BY ASSIGNMENTS

Name................................Assignment No..........................
Title of Assignment (condensed)..
Please give information asked for below in paragraphs numbered to correspond with the question. All answers should be typewritten.

1. How much time did it take?............hours. Distributed over how many days?..........days.
2. What conferences were held with public officials,—how called, who was present, what was done?
3. What individual conferences were held with directors or members of staff of accredited organization?
4. What reading did you do in connection with assignment?
5. What lectures were given in connection with assignments?
6. Was a round table, seminar, etc., conducted on subject of assignment?
7. What was the practical result of your work?

7. A report on personality. In public service this is second only to efficiency, and largely conditions efficiency. The necessity for the impressions or facts called for are obvious.

Form No. 4.

REPORT ON PERSONALITY

Name................................Assignment No..........................

This report is intended to inform the committee on practical training and the university authorities from which the student comes as to your impressions of this student's strength or weakness. Details are desired rather than a mere rating of qualities. The following categories are suggested for your consideration. (It is not expected that you will attempt to report under each):

1. Health, vitality, temperament..
2. Initiative, progress, promise..
3. Sincerity, genuineness..
4. Judgment, poise..
5. Methods of work..
6. Causes of failure, prospects..
7. Expression, especially in English..
8. Social qualities..
9. Executive ability..

Date........................ Signature..................................

IV. THE INSPECTION SERVICE

The committee on practical training desired very much to test its inspection service on one type of institution. Bureaus of municipal research were selected, primarily because they were relatively few in number and were located in such places that professors could be secured to make the inspection.

Because of the fundamental importance of the inspection service, it was thought worth while to explain fully just how it was administered. The steps may be listed here along with illustrative material.

1. A questionnaire was sent to each bureau of municipal research.

1. When was your organization formed? What conditions led up to your organization?
2. What are the purposes of your organization?
3. What has been done since organization? Will you please send us copies of any published reports?
4. What is your present program?
5. How is your organization financed? What is the extent of your permanent endowment?
6. Would you please send us a copy of your itemized budget for the present year?
7. How is the work of your men supervised?
8. Is there any attempt on your part specifically to supplement the actual work of the men by lectures, conferences, seminars, or other educational devices?
9. Who are the directors or supervisors of your organization? What has been their education and experience?
10. What is the education and experience of the principal members of your present staff?
11. Would you be willing to accept graduate students in political science, economics, sociology, public law or administration for service in your bureau on condition that you should make certain reports which we should prescribe?
12. Would you please send us copies of forms now used in your organization upon which your men report their work?
13. What relations, if any, have you to other organizations?
14. Who are your board of trustees? Would you please supply us with addresses?
15. We shall appreciate any information or material on any phase of your work not covered in the preceding questions.

2. A reply was received in each instance. The reply of the New York bureau of municipal research is given by way of illustration

Questions are answered in the order in which they appear on the questionnaire of the American Political Science Association.

1. The New York Bureau of Municipal Research was founded in January, 1906, under the name of the Bureau of City Betterment. In April, 1907, it was incorporated under the name of Bureau of Munici-

pal Research. Public discussion and contributions had made it evident at election time that the majority of citizens wanted efficiency, economy and honesty in public affairs, and it was to give this interest a way of expressing itself between election times that the Bureau of Municipal Research was founded.

2. The purposes of the Bureau of Municipal Research as stated in its articles of incorporation are: (*a*) to promote efficient and economical government; (*b*) to promote the adoption of scientific methods of accounting and reporting the details of municipal business, with a view to facilitating the work of public officials; (*c*) to secure constructive publicity in matters pertaining to municipal problems; (*d*) to collect; (*e*) to classify; (*f*) to analyze; (*g*) to correlate; (*h*) to interpret; (*i*) to publish facts as to the administration of municipal government.

3. *Six Years of Municipal Research for New York City* gives the bureau's record for 1906–11:

The bureau has been doing similar constructive work since that time and has extended its activities to practically every municipal function. It has also made studies and done constructive work in American and foreign cities. The Training School for Public Service—briefly mentioned in the above report—is no longer in the experimental stage. During its first two years 839 persons applied of whom 77 were accepted for training.

A list of the Bureau's publications is attached.

4. To adhere to purposes and methods as outlined in *Six Years of Municipal Research,* see pages 4, 8 and 9.

5. By contributions from public-spirited citizens. The bureau has no permanent endowment.

6. Not available until January 1, 1914.

7. Bureau staff work is supervised by three directors. Work of training school men by the same three directors, by a field supervisor and by the members of the bureau staff or city officials with whom the man happens to be working.

8. Yes, for the bureau staff by conference and discussions—for training school men by lectures, practical instruction, conferences, discussions, seminars and consultation with the directors and senior staff members (see answer to question number 15).

9. William H. Allen, Henry Bruère, Frederick Cleveland (see *Who 's Who*).

10. The majority are college graduates, with business and professional experience. Among the professions represented are medicine, law, education, engineering and accounting. Most of the staff members have travelled extensively and have had wide experience in constructive municipal work.

11. We are accepting them at present in the Training School for Public Service. Our willingness would be unlimited within any probable frequency and nature of reports requested (see answer to question number 15).

12. We enclose a copy of the time sheet and expense report used by the Training School men. In addition, numerous reports are made for which no printed form is supplied.

13. We coöperate with all organizations interested in bettering the public service. We also assist organizations upon request. Beyond this we are not affiliated with any organization.

14. Board of Trustees: R. Fulton Cutting, Chairman; Frank L. Polk, Treasurer; Joseph W. Harriman, George B. Perkins, Bradley Martin, Victor Morawetz, John B. Pine, Edwin R. A. Seligman, Albert Shaw, Frank Tucker (all can be reached at 261 Broadway).

15. We send under separate covers copies of the *Annual Report of the Training School for Public Service* for 1911 and 1912. The training school used three principal methods: (*a*) field work, (*b*) symposia, (*c*) study of the literature of efficiency.

Field work. The needs of the city of New York in the various departments and the needs of the other communities with which the Bureau of Municipal Research has come in touch, form at once the motive, the textbook and the laboratory for the Training School for Public Service.

Symposia. Carefully outlined symposia are being conducted, meetings are held on Thursday evening and Saturday morning. The Thursday evening symposia cover the following topics: (1) accounting with special reference to municipal accounting in its relation to budget making, appropriation accounting, current financing, revenue and expenses vs. receipts and payments; (2) methods of organizing and testing for efficiency in city departments; (3) methods of publicity.

Parallel with this series of symposia run field assignments which tend or aim to clinch what has been learned in the symposia discussions. The Saturday morning series of symposia take the entire morning and cover the following topics: (*a*) the history of municipal research and its various activities; (*b*) bureau of municipal publications; (*c*) demonstrations of mechanical office devices and equipment, such as tabulating machines, adding machines, computing machines, filing index devices, etc.; (*d*) practical work in bookkeeping and accounting; (*e*) report writing, publicity work; (*f*) different forms of governmental organization, commission government, city manager plan, etc.; (*g*) current bureau activities in and out of New York City, by men engaged on particular pieces of work.

Study of the Literature of Efficiency. Every man in the Training School for Public Service is supposed to familiarize himself with the literature of efficiency: (*a*) by general reading; (*b*) by special reading in connection with some special program or field study.

A bibliography of efficiency and municipal literature is in preparation for the use of training school men.

A great deal of such literature is to be found in the bureau library. The magnificent library resources of New York City are at the call of training school men.

3. A request for permission to inspect the bureau was sent.

Mr. William H. Allen,
Director, Bureau of Municipal Research, New York City.

Dear Mr. Allen:—The committee on practical training desires to secure the facts regarding opportunities for public service, especially in bureaus of municipal research.

We thank you for the information transmitted to us in answer to our questionnaire of last June. May we ask your further coöperation?

The committee would like very much to visit your institution through one of its members or its secretary and, in addition, to have a professor of economics and a professor of political science from a neighboring university make an independent inspection, in accordance with the resolution quoted at the top of this paper. Would you extend to us that privilege?

We shall be pleased to hear from you affirmatively in the near future.

Very sincerely yours,
Edward A. Fitzpatrick.
Secretary.

4. In every case an affirmative reply was received.

Bureau of Municipal Research,
261 Broadway, New York City.
October 27, 1913.

Mr. Edward A. Fitzpatrick,
Committee on Practical Training
Madison, Wisconsin.

My dear Mr. Fitzpatrick:—We shall be very glad to have your committee visit us, as proposed by you, or in any other way. The more inspections, and the more independent the inspections the better we shall be satisfied. If we have advance notice, we shall do our utmost to coöperate; the only difference between advance notice and no notice would be that some of those most familiar with the origin of the work might be out on field duty. But it really makes little difference, because current assignments will tell the story.

I wish it might have been possible for some representative to visit us during the budget work, when perhaps more easily than at any other time the products lie at the very surface.

Two striking illustrations of the productiveness of *training through service* are furnished by two men whom we found it necessary to let go, after having them on stipends for some time. One of them prepared a fact brief and law brief which were used by the attorney general of the state in a successful suit to recover the ocean beaches for public uses without price. Among the other's assignments was a survey of Hoboken health work, including the preparation of a model sanitary code and an administrative code to supplement it.

Sincerely yours,
(Signed) W. H. Allen,
Director.

5a. Professors of political science and of economics were requested to make the inspection.

PROF. ALBERT BUSHNELL HART,
Harvard University, Cambridge, Massachusetts.

My dear Professor Hart: In accordance with the first part of the resolution creating the Committee, it will visit, or cause to be visited, the New York Bureau of Municipal Research to discover what facilities there are for training men for public service under adequate supervision in contact with actual problems of government.

Dr. McCarthy suggests that you would be willing to make the official inspection of the New York Bureau of Municipal Research for the Committee. We trust it will be possible for you to do so. Any expenses incurred by your inspection will be cheerfully refunded.

We are inclosing herewith statement of such steps as have been taken and of such information as we have received: to wit

1. Statement of inspection service plan.
2. Our letter requesting coöperation.
3. Answer to our letter.
4. Our questionnaire.
5. Answer to our questionnaire.
6. Some suggestions as to investigation of bureaus of municipal research.

We should like very much to include in our preliminary report to the association at the forthcoming meeting, the results of your inspection. We should appreciate, therefore, very much having your material reach us by December 15th.

We should be pleased to receive any suggestions or comments on the plans for the inspection service.

Your hearty coöperation is very much appreciated.

Very sincerely yours,
EDWARD A. FITZPATRICK,
Secretary.

The list for each institution is given:

New York bureau of municipal research: Albert Bushnell Hart (Harvard), Charles A. Beard (Columbia), Henry Rogers Seager (Columbia), Jeremiah Jenks (New York University).

Philadelphia bureau of municipal research: William F. Willoughby (Princeton), Clyde L. King (Pennsylvania), Emory Johnson (Pennsylvania).

Chicago bureau of public efficiency: Benjamin F. Shambaugh (Iowa), O. E. Klingaman (Iowa), Leon C. Marshall (Chicago), William F. Dodd (Illinois).

Cincinnati bureau of municipal research: Raymond G. Gettell (Trinity College), Augustus R. Hatton (Western Reserve), John A. Lapp (Indianapolis State Library).

Dayton bureau of municipal research: Raymond G. Gettell (Trinity College), Augustus R. Hatton (Western Reserve), S. Gale Lowrie (Cincinnati).

Baltimore bureau of municipal research: William F. Willoughby (Princeton), John R. Commons (Wisconsin), Westel W. Willoughby (Johns Hopkins).

5b Accompanying this request was a booklet containing all the material listed here.

6. Bureau of municipal research is notified simultaneously of professor who will visit.

DR. WILLIAM H. ALLEN,
Director, Bureau of Municipal Research, 261 Broadway, New York City.

Dear Doctor Allen:—We are exceedingly pleased to have your coöperation. We note especially that you will be glad to welcome representatives of the Committee to your institution and aid them in their inspection. In accordance with the plan outlined herewith, we are asking, in the same mail that carries this letter to you, Professors Albert Bushnell Hart and Charles A. Beard of Columbia, Professor Henry Rogers Seager of Columbia and Professor Jeremiah W. Jenks of New York University to visit the New York Bureau of Municipal Research.

We shall be pleased to have you submit to the foregoing named men any printed material that you have submitted to the Committee, espeially any statement of purposes or plans. We shall welcome at any time any supplementary material of any kind—printed or otherwise. We should be pleased to have you place us on your regular mailing list.

We are confident that the interrelations established by the inspection service will be mutually helpful. Let us repeat that we appreciate very much you spirit of hearty coöperation.

Very sincerely yours,
EDWARD A. FITZPATRICK,
Secretary.

7. Suggestions to men making inspections.

The success of the committee's plan depends in the last analysis upon the completeness and searching character of the inspection service. To see the institution during working hours is necessary. It is essential that original records be examined and that the actual work be inspected—in short, that the inspector get a *first hand* impression of everything. The inspectors should follow any line of inquiry that they think will secure the desired results. Conferences are, from the standpoint of the committee, either preliminary or supplementary; *personal investigation* is of fundamental importance.

The committees will be pleased to have you express your judgment as to the advisability of placing post-graduate students in the institution you have examined. But the committee plans to submit to the universities a fact-statement of conditions, or as the outline of the inspection service has it, a "bill of particulars." Consequently the more concrete and the more specific your report, the better it will serve the purposes of the committee. We should be pleased to have specific information about all phases of the activity of the organization inspected. We are especially anxious to find out how far this activity has produced definite practical results.

A word may be permitted about publications in this connection—especially as our immediate concern is with investigative rather than administrative organizations. These frequently represent a past condition of the organization. The inspection should attempt to discover how far results have followed upon publications, that is, how far the investigations were "tied up" to administrative or other changes. Recent reports, especially, should be examined carefully to illustrate point of view and methods of work.

In governmental administrative agencies the formal assignment or orders should be followed through the whole process of carrying them into effect.

Please report on present activities of agency in detail.

I. Act of incorporation
  a. Purposes
  b. General organization
  c. If not incorporated, get
    1. "Purposes and plan of organization"
    2. Or similar document
II. Chart the organization
  a. Trustees
  b. Bureau staff
  c. And connections
III. Board of trustees
  a. Minutes of meetings
    1. Examine copy in part, if necessary
    2. Policy—determining resolutions
  b. Nature of supervision
    1. Personal
    2. By means of report
IV. Bureau staff
  a. List
    1. Classify part time and full time
    2. Check by *pay rolls*
  b. Staff meetings
    1. Regularity and number
    2. Minutes of meetings
  c. Nature of supervision (records)
    1. By director
    2. Others
  d. Examine time-sheets
  e. Examine record of individual's work—assignments

- V. Last year's work
  - *a.* Annual report or
  - *b.* Statement to trustees or contributors
  - *c.* Publications
  - *d.* Statement of results
  - *e.* Budget for the year
  - *f.* Financial statement for the year
  - *g.* Publicity
- VI. Work finished up to date 1913
  - *a.* Publications
  - *b.* Assignments to men summarized
  - *c.* Publicity.
  - *d.* Budget for 1913
- VII. Work now under way
  - *a.* Time sheets of men or
  - *b.* Assignments to work
- VIII. Relation to other agencies
  - *a.* Formal agreements
  - *b.* Instances of coöperation
- IX. Attitude of city or county officers
  - *a.* Evidence
- X. Any special agreements with any universities

8. The nature of the reports of inspection.

Five reports have been submitted to the committee. A few facts regarding these reports may be tabulated.

What did the inspectors do?

1. Conferred with directors of organization; staff members, former staff members, and those for whom organization had been employed.
2. Conferred with city officials.
3. Examined time sheets, and other current reports of time spent and work done.
4. Examined reports of trustees.
5. Verified reports by reference to documents, and by inquiry of persons who know.
6. Examined reports not published.
7. Examined working papers.
8. Attended staff meetings.

What facts did they report?

1. Collection, sifting and preservation of material.
2. Budget.
3. Coöperation with city officials—with other organizations.
4. Activities of past year.
5. Present activities.

6. Connections with any university.
7. Relation of trustees and directors.
8. Family relation of trustees and staff.
9. Quarters of organization.
10. Special features as sending "member of staff to visit twelve leading commission cities."
11. Working libraries.
12. Reports not printed.
13. Extent and character of supervision.
14. Educational devices, e.g., seminar, luncheon conferences, tours of inspection.
15. Publicity—attitude of press.
16. Staff—contentedness—changes.
17. Academic history and experience of staff.

What judgment did they express?

1. Combination of academic and practical work during the same academic year (disapproved).
2. Whether the work which a student would get in the place inspected would be acceptable to them as college professors.

We are at present in an experimental stage of our inspection service. But the foregoing outline indicates clearly that the inspectors have taken up their work seriously and have done it conscientiously. It remains for the committee to systematize it more specifically.

V. IN CONCLUSION

A. Other Opportunities for Practical Training

The committee lists as other opportunities not yet investigated the twenty-nine legislative reference libraries, the forty and more special legislative investigating committees or commissions in the various states in the Union, the organization of investigating agencies within municipalities such as the New York commissioner of accounts, and within States such as the Wisconsin state board of public affairs.

B. Practical Training in Operation

The plan of the committee can be put into successful operation. It has been. Professor Loeb of the University of Missouri assigned Mr. Rockwell C. Journey, the fellow in political science to the committee on practical training which in turn reassigned him to the Wisconsin legislative reference library. The nature of Mr. Journey's work with forms used is shown in detail in the full report. One or two of his assignments may be quoted at this time.

ASSIGNMENT NO. A

To Rockwell C. Journey,
Assignment (with suggestions)

This is a general assignment.

From now until the end of the legislative session you will be expected to attend each session of the legislature and as many of the committee meetings as is possible. Please be present a little while before each session opens and watch the lobby both before, during and immediately after the close of the sessions. You will please watch legislation in which the board of public Affairs is interested, e.g., education, coöperation, northern lands, and mortgage land banks. When the legislature is not in session, observe the reference and drafting departments of the legislative reference library. After each evening session you will have abundant opportunity to get in direct touch with the legislators in the post-session conferences of Dr. McCarthy and the legislators.

To work in conjunction with:

Dr. McCarthy, Mr. Riley of the drafting department, Miss Lyle of the reference division, and Mr. Fitzpatrick.

Under the supervision of, and all reports to

Dr. McCarthy

Date of assignment	*Date of completion*	*No. of hours*
June 20, 1913	August 9, 1913	450

(Signed) CHARLES MCCARTHY,
Chief, Legislative Reference Library.

In the succeeding assignments only the assignment proper is given.

ASSIGNMENT NO. 1

Will you make a study of the State Board of Public Affairs in its relation to the administration of state government in Wisconsin?

Chapter 583 of the laws of 1911 is the statute creating the Board of Public Affairs this probably would be a good starting point. This statute is to be changed by senate bill No. 426, which you will please follow in its course through the legislature. See assembly bill No. 1098 and watch that.

The Board of Public Affairs is two main divisions, an accounting division and a social-economic division. The principal work of the social-economic division has been:

1. A study of the rural schools of the State.
2. A study of principles underlying a state budget.
3. Studies in coöperation and marketing.
4. Coöperative credit.

The principal work of the accounting division has been:

1. A system of accounts for all state departments and state institutions.
2. An audit of the university, board of control and normal schools.
3. Preparation of a complete budget for the State which is the basis for all appropriation bills introduced in the legislature.

ASSIGNMENT NO. 2

This assignment is to be a study of the administration of the library system of the State of Wisconsin under the direction and supervision of the free library commission. Together with this assignment there is handed to you a set of the Wisconsin Library bulletins and circulars of information, together with typewritten copies of the current report and statistics. In this assignment you can emphasize the commission as a method of handling these problems and contrast it with other States that do handle it by means of a commission and otherwise. Prepare this study in form of article that would be acceptable to papers such as the "World's Work."

ASSIGNMENT NO. 3

In accordance with the letter from Professor Loeb you are hereby assigned to make a study of the results of the special fire insurance investigating committee appointed by the last legislature and the success of their bills at the present legislature. As this study is to meet a particular need of the Missouri committee the details of the study you will naturally get from consultation and correspondence with the Missouri people, but you may consult Mr. Herman Ekern, the commissioner of insurance, and Mr. L. L. Johnson, a member of the assembly, who is the floor representative in the assembly of the investigating committee. Mr. Fitzpatrick will also give you some information as to the progress of legislation.

ASSIGNMENT NO. 4

A member of the senate will introduce the joint resolution which is handed you herewith. Will you please prepare for this senator such facts regarding the laws for the certification of teachers which would serve as a justification for the investigation. This assignment to be completed by Monday, July 14.

ASSIGNMENT NO. 5

There will be handed you herewith the seventeenth annual report of the city service commission of Milwaukee. The Milwaukee bureau of municipal research has requested a criticism of these regulations. Will you please prepare a definite and specific criticism and commendations on the various provisions contained in the rules? You might consult with the acting secretary of the state Civil Service Commission and head of the municipal reference library of the University of Wisconsin.

ASSIGNMENT NO. 6

The Board of Public Affairs is authorized under sub-section 5 of section 990–56 of the statutes to continue its investigation into the efficiency and economy of public bodies. Under this general authorization you are hereby assigned under Mr. Campbell of the Board of Public Affairs to make a study of the actual services being rendered by the various departments of government and to set this service over against the expenditure for the various purposes of the department.

The disbursements for the departments have been worked out for a period of ten years, 1902–12 inclusive. The fiscal statistics for the year 1913 will be compiled by the employees of the state tax commission.

The work which you will be especially assigned to has been done in a very general way. It is necessary to get more specific information and to find out more definitely what is being done. For this purpose you will have to visit departments under Mr. Campbell's direction.

ASSIGNMENT NO. 7

This is an assignment on agricultural organization with special reference to the marketing of agricultural products. Study closely Irish and Danish experience in this field.

Mr. Hull's direct marketing bill and the proposed market commission bill you are already familiar with from your study of and contact with the legislature. What would be the best way of fitting the new system of marketing in our State to our present legislation and to our present administration of related subjects by the dairy and food commission? Study especially standardization and branding of butter and cheese. How could a branding plan be introduced in this State now? Has the dairy and food commission authority? Is legislation needed? What legislation?

ASSIGNMENT NO. 8

Study the grange movement. I believe Buck has written a book on the subject which the library has ordered.

Study the operation of grange organizations in this State—particularly the American Society of Equity. Read the *Equity News*, the official organ of the Equity Society.

How could a society of equity be reorganized to coöperate with our dairy and food commission in a manner similar to the action of coöperative organizations in Europe with governmental departments? Could we import the European system? What are the Wisconsin conditions that should be especially kept in mind?

C. Practical Training Programs for Other Organizations

A. Civil service reform association and civil service commission.

1. Oppose the local resident requirement for public office.
2. Increase the value of experience and practical training in examination ratings.
3. Utilize demonstrations by candidates in examination.
4. Make positions permanent only after a probationary period.
5. Favor the establishment of efficiency divisions in connection with civil service commission.
6. Limit the use of temporary appointments.
7. Accept demonstrated capacity in similar work in lieu of examinations.

B. Carnegie foundation for the advancement of teaching.

1. A study of fellowships with special reference to efficient methods of award.

2. A study of the whole question.

C. General education board.

1. A study of the whole question.

D. Individuals or organizations offering prizes.

1. That preference be given in the selection of subjects to those which call for actual contact with an intimate knowledge of (1) actual social conditions; (2) the details of the administrative machinery underlying any particular subject, e.g., commission government.

2. That in the award of prizes greater value be given to (1) fact-statement of conditions; (2) reports of "actual government" rather than formal government; (3) the correlation of actual conditions with actual government; (4) constructive suggestions based on personal knowledge of workings.

VI. FINANCIAL STATEMENT, AUGUST-DECEMBER, 1913

Receipts		*Expenditures*	
Walter Stern	$500.00	Salaries	$1305.93
R. Fulton Cutting	250.00	Traveling expenses	482.18
Niel Grey, Jr.	10.00	Postage and stationery	25.00
James A. Patten	250.00	Expense, postage	10.00
Chas. R. Crane	250.00		
V. Everitt Macy	250.00		
Anonymous	500.00		
American Political Science Association	25.00		
Total receipts	$2035.00	Total expenditures	$1823.11

Balance on hand, $211.89

BUDGET, 1914

Administrative expense

1. Salary, executive secretary	$3000.00
2. Clerical assistance	800.00
3. Postage, telephone, telegrams, stationery, printing, office supplies	1000.00
4. Traveling expenses of secretary	1000.00
Total	$5800.00
Inspection service	$2500.00
Grand total	$8300.00
Balance on hand	211.89
Our needs	$8088.11

The American Political Science Review

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Correspondence with reference to contributions to the Review, and books for review, should be sent to W. W. Willoughby, Managing Editor, Johns Hopkins University, Baltimore, Md., U. S. A.

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